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Sixty-fourth year

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New York

President:	Mr. Davutoğlu/Mr. Ilkin	(Turkey)
Members:	Austria	Mr. Mayr-Harting
	Burkina Faso	Mr. Kafando
	China	Mr. Liu Zhenmin
	Costa Rica	Mr. Urbina
	Croatia	Mr. Sanader
	France	Mr. Lacroix
	Japan	Mr. Okuda
	Libyan Arab Jamahiriya	Mr. Gouider
	Mexico	Mr. Heller
	Russian Federation	Mr. Churkin
	Uganda	Mr. Mugoya
	United Kingdom of Great Britain and Northern Ireland	Mr. Parham
	United States of America	Ms. DiCarlo
	Viet Nam	Mr. Le Luong Minh

Agenda

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January 1994 and 31 December 1994

Letter dated 14 May 2009 from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 addressed to the President of the Security Council (S/2009/252)

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Letter dated 14 May 2009 from the President of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January 1994 and 31 December 1994 addressed to the President of the Security Council (S/2009/247)

The meeting was called to order at 10.10 a.m.

Expression of thanks to the retiring President

The President: As this is the first meeting of the Security Council for the month of June 2009, I should like to take this opportunity to thank and pay tribute, on behalf of the Council, to His Excellency Mr. Vitaly Churkin, Permanent Representative of the Russian Federation, and to the Russian presidency for the successful manner in which they presided over the Security Council in the month of May 2009.

I also wish to recognize the presence of His Excellency Mr. Ivo Sanader, Prime Minister of Croatia. I extend a warm welcome to the Prime Minister.

Statement by the President

The President: Before we move on to the item on our agenda, allow me to say a few words in my national capacity.

As members of the Security Council know, this is the first public meeting of the Council under Turkey's presidency. I am delighted to be here with you today. When Turkey decided to run for a seat on the Council, some five years ago, we did so with a clear vision of the United Nations and of our possible role in the Council. Indeed, we see the United Nations as the principal embodiment of international legitimacy, and the Security Council as the primary organ responsible for maintaining global peace and security.

Turkey has been a responsible member of the international community, deeply committed to upholding the ideals and principles enshrined in the United Nations Charter. Indeed, as a founding Member of the United Nations, active involvement in the policies and programmes of the Organization constitutes one of the main pillars of our foreign policy. This is why we thought our membership in the Council could help amplify the constructive role we try to play in our region and beyond. We also hoped that our insight into the rather complex issues that the Council is grappling with, especially those of our region, might bring added value to the work of this body.

In retrospect, the five months since we assumed Council membership have vindicated our vision. We have benefited greatly from our deliberations on a wide area of issues and have tried to translate them into positive inputs for our policies and initiatives. Now, looking ahead, we are even more hopeful that our active engagement with the members of the Council and the entire United Nations membership will continue to contribute to peace and stability in the world.

I am confident that the busy programme of work for June, which reflects almost the entire agenda of the Council, will be a step in this direction. As the President of the Council for this month, we will certainly do our share.

In this vein, I am particularly pleased to start our presidency with this meeting on the International Criminal Tribunals for the Former Yugoslavia and for Rwanda. The contribution of those two Tribunals to international criminal justice and, consequently, to reconciliation, stability and peace in the affected countries is most commendable. As a country that is deeply committed to the rule of law and as a firm believer in the mutually reinforcing relationship between peace and justice, Turkey greatly values the important work carried out by those Tribunals. Combating impunity and providing justice to the victims of violations of international humanitarian law are a priority for us.

However, the fulfilment of those objectives is not and cannot be limited to the lifespan of the Tribunals in the case of the former Yugoslavia and Rwanda. Thus, as we near the closure of the two Tribunals, we have to ensure that the culture of impunity will never resurface and that the necessary mechanisms to that end are firmly in place.

Since we will be dealing with this issue shortly in more depth, let me stop here. Without further ado, allow me to proceed with our formal agenda.

Adoption of the agenda

The agenda was adopted.

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The President: I should like to inform the Council that I have received letters from the representatives of Bosnia and Herzegovina, Kenya, Rwanda and Serbia, in which they request to be invited to participate in the consideration of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite those representatives to participate in the consideration of the item without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, the representatives of the aforementioned countries took the seats reserved for them at the side of the Council Chamber.

The President: In accordance with the understanding reached in the Council's prior consultations, I shall take it that the Security Council agrees to extend an invitation under rule 39 of its provisional rules of procedure to Judge Patrick Robinson, President of the International Criminal Tribunal for the Former Yugoslavia; Judge Dennis Byron, President of the International Criminal Tribunal for Rwanda; Mr. Serge Brammertz, Prosecutor of the International Criminal Tribunal for the Former Yugoslavia; and Mr. Hassan Jallow, Prosecutor of the International Criminal Tribunal for Rwanda.

It is so decided.

The Security Council will now begin its consideration of the item on its agenda. The Council is meeting in accordance with the understanding reached in its prior consultations.

Members of the Council have before them the following documents: S/2009/252, which contains the text of a letter dated 14 May 2009 from the President of the International Criminal Tribunal for the Former Yugoslavia addressed to the President of the Security Council; and S/2009/247, which contains the text of a letter dated 14 May 2009 from the President of the International Criminal Tribunal for Rwanda addressed to the President of the Security Council.

At this meeting, the Security Council will hear briefings by the President of the International Criminal Tribunal for the Former Yugoslavia, the President of the International Criminal Tribunal for Rwanda and the Prosecutors of the International Criminal Tribunals for the Former Yugoslavia and Rwanda.

I now give the floor to Judge Patrick Robinson, President of the International Criminal Tribunal for the Former Yugoslavia.

Judge Robinson: It is indeed an honour for me to appear before you today in my capacity as President of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and to do so under the presidency of Turkey.

My remarks today will be brief, as the details of the measures the Tribunal has undertaken to complete its mandate are set out in my written biannual report (*see S/2009/252*), which has been duly submitted to the Council.

Since my most recent presentation before you, the Tribunal has continued to focus its energy on completing its work as expeditiously as possible. Three appeal judgments have been rendered, including in

some of our most complex cases, and seven trials are being heard simultaneously in our three courtrooms.

Of the remaining caseload, the trial of two accused, Stanišić and Simatović, will begin tomorrow, 5 June 2009, and that of Karadžić will commence in late August 2009. Both Tolimir and the final case of Mićo Stanišić and Stojan Župljanin will commence in September 2009.

Our current estimates suggest that all but three of our trials will conclude in 2010, two more in early 2011 and the final trial, that of Karadžić, in early 2012.

As you can see, our trial activity is entering the final stretch. However, one serious hurdle remains: the continued flight from justice of Ratko Mladić and Goran Hadžić. The failure to bring these two men to justice will leave a stain on the Security Council's historic contribution to peacebuilding in the former Yugoslavia.

Allow me to turn to the current projection of the remaining appeals, including those anticipated from the ICTY and our sister tribunal, the International Criminal Tribunal for Rwanda (ICTR), it being recalled that the two Tribunals share an appellate function. Following a detailed analysis, the Tribunal estimated that, absent a redeployment of eight trial judges to the Appeals Chamber upon the completion of their trial work, the ICTY/ICTR Appeals Chamber would be occupied with appellate work into 2015. However, with the redeployment of four ICTY and four ICTR judges, most appellate work will be completed by the end of 2012, with four cases spilling into the first half of 2013.

This proposal for deployment was presented in the Tribunal's biennium budget for 2010-2011 as part of the Tribunal's downsizing programme and is a matter that is now formally before the Security Council in the form of a request for an extension of the mandates of the permanent trial and appeal judges and the Tribunal's ad litem judges. In this regard, I thank the Austrian Chair of the Security Council Working Group on the ad hoc Tribunals and the Office of the Legal Counsel for their assistance in expediting the consideration of these proposals to ensure that the work of the Tribunal is not frustrated.

I note, however, that the heavy appellate workload of the Tribunal is in part due to the failure of rule 11 bis transfers from the Rwanda Tribunal to national jurisdictions. Rwanda was found not to have sufficient capacity to try such cases, and in response the international community is taking measures to address this deficiency. But perhaps more troubling is the lack of capacity or readiness to try such cases present in European countries, where the ICTR had also sought to transfer cases pursuant to rule 11 bis. I consider this to be a critical issue that needs to be addressed by the Security Council and the international community. Surely, countries with highly developed judicial systems could make a greater effort to accept a limited number of 11 bis transfers. In so doing, they would make a real contribution to the international community's efforts to bring the work of the Tribunal to completion in full respect of due process.

It may be that the Security Council's proscription in paragraph 6 of resolution 1534 (2004), which requested the Tribunal not to try cases involving intermediate and lower rank accused, was inexorably linked to the transfer of cases to the States of the former Yugoslavia. However, with the blessing of the Security Council, we could make a renewed effort to transfer to a developed country one major case of a senior accused. That move alone would save one trial bench 14 months of court sitting, not to count the required time for consideration of an appeal.

While the Tribunal continues to make every effort to expedite its work, it has identified some factors that may cause delays to its schedule, which need to be more extensively addressed. First is the issue of translation. Observing the United Nations standard of 5.5 pages per day per translator, the need for extensive referencing and indispensable review process to ensure quality translation requires significant time. The situation is further aggravated by the extraordinary demands made on our limited language resources. Owing to the highly technical and often confidential nature of the legal translation work required, outsourcing translations has necessarily been restricted in scope.

Efforts continue to identify ways of minimizing the impact of the need for translation on trial and appeal schedules and to identify and recruit qualified translators. However, 20 vacancies remain in the language service, and recruitment is hindered by the completion strategy. In most cases, it takes at least three to five months to recruit a suitable candidate. As the ICTY is facing increasing competition in hiring qualified language staff without retention incentives, it

is likely that the number of translators will decrease rather than increase in the future.

Another matter which has had a negative impact on the expeditious progress of trials is contempt proceedings. I need only mention the Seselj trial, which has been adjourned since March 2009. In light of the impact of contempt proceedings on the completion of our trials, I established a working group to examine ways in which contempt may be dealt with without delaying proceedings. That report will be submitted to me shortly, and I am hopeful that it will contain concrete measures that Judges may adopt when faced with contempt issues during their trials. Additionally, the Rules Committee is considering the adoption of a rule to allow the admission of written statements of witnesses who are kept away from trial through intimidation.

Let me return to the issue of staff retention; it is a difficulty which cuts across all areas of the Tribunal's operations. In the past three months, we have lost 82 staff members at a rough average of 27 per month. Much has been said about the need for highly qualified personnel for the orderly completion of our work. I appeal to the Security Council to exercise foresight so that concrete measures can be implemented now to retain our staff. The only measure that has been taken so far by the General Assembly is resolution 63/256, adopted at its sixty-third session on 24 December 2008. In paragraph 5 of that resolution, the General Assembly requested the Secretary-General

> "to use the existing contractual frameworks to offer contracts to staff, in line with dates of planned post reductions in accordance with the relevant prevailing trial schedules, in order to remove uncertainty with regard to future employment with the aim of ensuring that the Tribunals have the necessary capacity to complete their respective mandates effectively".

It is my intention to ensure the implementation of the resolution as soon as possible, but even so I doubt that this will be enough. I do not want to return here in six months and be berated by the Security Council for a report that indicates substantial delays in the anticipated schedule I am presenting today due to the continuing departures of our uniquely qualified and experienced staff. I have a genuine fear that we will soon find ourselves without sufficient staff, but it appears to me that Member States that are in a position to assist have adopted an attitude of uninterestedness in this matter. I am not normally given to hyperbolic comments, but if we continue to lose staff at the rate of 27 per month I fear that one day the judges may come to work and find themselves alone.

The Tribunal is doing all it can to retain its staff, but without appropriate assistance and concrete measures it will not be successful. This is a matter that I will continue to raise with the Secretary-General, the Office of Human Resources Management and the Controller, and the Security Council's active support in this matter would be very helpful.

That said, I note that all indications are that our request for extensions of our judges consonant with our remaining work load will not be granted by the Security Council and that, at most, all judges will be granted an extension until 31 December 2010. Now, this is a political decision taken by the Security Council, but I cannot impress on the Security Council enough the signal such a piecemeal approach to extensions of the mandates of our judges sends to our staff. Such an approach only operates to enhance their desire to secure other employment as soon as possible. I would ask the Council to seriously reconsider the wisdom of its approach to this issue.

I must thank the Security Council Working Group on the ad hoc international tribunals and the Austrian Chair, for their work on the residual mechanism. The Tribunal is grateful to the Office of the Legal Counsel for the extensive opportunities it gave the Tribunal to provide input for the report of the Secretary-General on the budgetary and administrative aspects of the residual mechanism.

Let me close my remarks by stating, in the words of Henry Wadsworth Longfellow: "Great is the art of beginning, but greater is the art of ending." In the very near future, our cases will be completed. Provided that the Security Council ensures that the Tribunal is given sufficient resources to complete its work expeditiously and fairly and provided that sufficient incentives are adopted immediately to retain staff, great indeed will be the art of our ending.

The President: I thank Judge Robinson for his briefing.

I now give the floor to Judge Dennis Byron, President of the International Criminal Tribunal for Rwanda.

Judge Byron: I would like first of all to wish the new Turkish presidency the best of success for their tour of office. I would also like to recognize the presence of the Prime Minister of Croatia.

It was 15 years and two months ago, on 7 April 1994, that the Rwandan genocide started. Three months later, at least 800,000 people had been killed, not to speak of the number of victims of rape, mutilation and torture and not to mention the psychological damage done to millions. Only a few months after the end of the atrocities, the Security Council created the International Criminal Tribunal for Rwanda (ICTR) with high expectations and ambitious goals. The Council was:

> "Convinced that ... the prosecution of persons responsible for serious violations of international humanitarian law would ... contribute to the process of national reconciliation and to the restoration and maintenance of peace ... ." (*resolution 955 (1994), seventh preambular paragraph*)

I would suggest that the Tribunal has fulfilled many of those expectations and we remain committed to ensuring that our legacy will be satisfactory to all Rwandans.

As I present the eleventh completion strategy report to the Council today, I am mindful that I am here not merely to report the achievements of the Tribunal, but to acknowledge that the credit for those achievements belongs to the Council. At no small expense Council members have supported this Tribunal, which marks a milestone in articulating and protecting fundamental human rights without regard to ethnicity, local politics or national boundaries. The Council's support of our efforts demonstrates its commitment to the proposition that man's inhumanity to man cannot be excused as an inevitable trait of human nature. It is a choice for which every perpetrator of atrocities can be and must be held responsible.

The ICTR has accomplished much since it was established in November 1994. It has rendered judgements concerning forty-four defendants in complex cases under difficult conditions. Yet, equally important, the Tribunal has established a judicially verified factual record of the events in Rwanda that will serve as a background for the remaining trials, a resource for historians and as a major contribution to the process of reconciliation.

But we are not complacent. In the six months since I last reported to you in December, the Tribunal has rendered three judgements involving six accused. Between now and the end of the year, we expect six judgements in other single-accused cases. The first months of this year have also seen the completion of the evidence phase in two of the largest multi-accused trials; the Butare trial and the Military II trial. These two and the Bizimungu case are now all in the judgement drafting phase, involving in total some 14 accused. In the fifth multi-accused case, the Karemera trial, we are currently awaiting the decision of the Appeals Chamber with respect to our order to sever one of the defendants whose continued illness has delayed the proceedings.

The maximum possible number of ten new cases projected for 2009 during my last presentation to the Security Council did become a reality. Four of these ten new cases have commenced as of today and in one of them the evidence phase has already been completed.

The Tribunal continues with its efforts to improve the management of the trials, from the pretrial stage to the drafting of judgements. Nevertheless, the commencement of several of the new trials had to be adjourned for a variety of reasons, including disclosure issues, the unanticipated resignation of counsel in three cases shortly before the scheduled start of the trial, the death of one of the defence counsels and the recusal of a presiding judge. But despite those delays, we continue to make all efforts to meet the projections and to conclude the evidence phase by the end of this year to the extent possible.

However, the delayed start of some of the trials requires contingency planning for a possible spillover of those hearings into the first months of 2010. The delays could also affect the schedule for the judgement drafting process, both in the new and the ongoing cases, as the same judges will be in trial and in deliberation for judgements. However, with a caveat for the Karemera trial, we expect judgement to be delivered in all of these cases during the course of 2010. It is in this context that we invite the Council to approve the extension of the mandates for our trial judges until 31 December 2010.

Three new ad litem judges joined the Tribunal in January and are part of the bench in several new trials. Our efforts to recruit a fourth additional judge from the roster were not successful, and the roster has been depleted. However, as evidence of our commitment to downsizing wherever possible and to prevent further delays that might be incurred by the nomination process, we have decided to try the remaining new cases with judges currently serving at the Tribunal and not to request the appointment of additional ad litem judges. At the same time, this decision undoubtedly puts an additional burden on the currently serving judges, who are all sitting in at least two and often three cases in parallel.

The inequality between permanent and ad litem judges with respect to certain entitlements remains a major source of concern. Following resolution 1855 (2008), which abandoned the requirement for a permanent judge to be included in each bench, the ad litem judges are now nearly identical in authority to the permanent judges and on equal terms regarding responsibility and case load. Ad litem judges will preside in several of the new cases. Addressing the inequality in status is crucial not only to ensure the motivation and commitment of those judges, but also as a matter of simple equity.

The ICTR is faced with a turnover of staff that is constantly increasing and is exacerbated by the insecurity stemming from the short-term duration of the contract currently being offered by the Tribunal. Loss of experienced staff translates into loss of institutional memory, which is not easily overcome by engaging new staff. This fact emphasizes the need to ensure that experienced staff members are retained as long as their services are required.

Although much has been achieved, important tasks remain. Fifteen years after the genocide, 13 fugitives are still at large, four of them earmarked for trial before the Tribunal as high-level accused. I reiterate strongly my call upon Member States to cooperate fully with the Prosecutor's efforts to ensure their arrest and transfer to Arusha during this last period of the Tribunal's mandate. For an international community committed to the fight against impunity, letting those indicted for the most serious crimes escape trial is not an acceptable option.

The cooperation and assistance of Member States remains a cornerstone for the successful completion of the Tribunal's mandate in many respects. Two weeks ago, I signed decisions for the transfer of a further nine convicts to a Member State for the enforcement of their sentences. The support of the international community is still urgently required for the relocation of the two acquitted persons remaining in Arusha. I would like to reiterate my call for the Council's cooperation in this matter.

As the Council is aware, the Tribunal is currently in the process of preparing budget proposals for the 2010-2011 biennium. The remaining work load is enormous, and our ability to successfully complete it is dependent on the adequacy of both financial and human resources and is relevant to this discussion even though the Security Council is not the forum for discussing budgetary matters. Kindly allow me to seize this opportunity to ask for the support of Member States in ensuring that the Tribunal is provided with the resources needed to complete its tasks. Even in these difficult times of economic crisis, I am convinced that all Member States remain committed to the goal of delivering high quality justice to the victims of the Rwandan tragedy. We can achieve these goals set for our work by the international community only if the necessary resources are provided.

While the Tribunal continues working at full speed, preparations have to be made for the future after the closing down of the Tribunal. The Secretariat has been consulting the Tribunal extensively during the preparation of the report to the Security Council on the residual mechanisms and the archives. I am confident that the report will provide a very solid and comprehensive basis for the difficult decisions the Security Council will have to make on these matters. I trust that our joint goal of effectively avoiding impunity for genocide, war crimes and crimes against humanity committed in Rwanda in 1994 will be the overarching principle guiding its decisions.

Let me conclude by expressing, on behalf of all the judges and staff members of the ICTR, our sincere appreciation for the continuous support of the esteemed Governments represented on the Council. I would also in particular like to thank the staff members of the United Nations Secretariat for their invaluable advice and support. I would especially like to single out the Office of Legal Affairs in this regard.

Our joint efforts to bring to justice those who committed the most atrocious crimes in Rwanda in

1994 are sending a powerful message to the world. Even if fifteen years have passed, even if it has been a burdensome process containing challenges and flaws, even if not all indictees have been arrested as yet, we must and we will continue to fight against the culture of impunity and for accountability and justice. The goal of successful reconciliation and enduring peace in the Great Lakes region will only be achieved if all those concerned can trust the power of this message.

The President: I thank Judge Byron for his briefing.

I now give the floor to Mr. Serge Brammertz, Prosecutor of the International Criminal Tribunal for the Former Yugoslavia.

Mr. Brammertz: I thank the Council for giving me the opportunity to present the 11th report on the completion strategy of the Office of the Prosecutor.

I will provide the Council with a brief update on our judicial work, the cooperation of States, efforts undertaken to support the work of prosecution services in the former Yugoslavia and, importantly, the organizational plans for my Office during the final phase of the Tribunal's existence.

It is expected that 2009 will be the last year of full trial activity before the downsizing of the Tribunal begins in 2010. During the last six months, the Prosecution has made significant progress in achieving the completion strategy goals. Since I submitted my written report to the Security Council in the middle of May, the Prosecution has completed its final arguments in a trial of two accused — the *Lukić and Lukić* case — and judgement is expected in the coming months.

There are at present six cases — and 19 accused — in trial. One of these cases, a complex prosecution of seven accused persons charged with crimes committed in Srebrenica, is now in its final stages. The Prosecution's final brief in the *Popović et al.* case is due at the end of July and final arguments are scheduled for the end of August.

The other cases in trial — the *Đorđević* and *Perišić* trials — are well advanced into the prosecution phase, while the *Prlić et al.* and *Gotovina et al.* cases are now in their defence phase.

Despite the prosecution's efforts to move forward through the trial schedule, some additional delays have occurred. Most notably, in February 2009, the *Šešelj* case had to be adjourned as a result of difficulties in securing the remaining witnesses' evidence.

Significant progress has been made in the last four cases currently at the pretrial stage. The *Karadžić* prosecution team has been working consistently to ensure the case is ready to start trial shortly. After a lengthy adjournment due to Jovica Stanišić's health problems, the *Stanišić and Simatović* case is due to recommence soon. The prosecution is ready to begin the *Stanišić and Župljanin* trial, which is expected to begin in September, and the *Tolimir* case should begin trial in September as well. In order to ensure the immediate commencement of new trials, we have moved quickly by reassigning staff finishing the *Popović et al.* and *Lukić and Lukić* trials.

Prosecution work on appeals cases remains constant and is expected to increase significantly in future months. By the end of 2009, the Appeals Division will have a continuing inventory of 24 appeals case.

The cooperation of States with my Office remains critical to the successful completion of our trial and appeals work. We continue to request the assistance of Bosnia and Herzegovina, Croatia and Serbia in a number of areas, such as the provision of documents, access to archives, ensuring that witnesses can testify before the Tribunal, and assisting in locating and arresting fugitives. I recently travelled again to those countries, where I met with authorities at the political, judicial and operational levels to raise all those matters.

Since my last briefing to the Council, Serbia has made additional progress in its cooperation with my Office. The large majority of requests for assistance have been complied with, including those for access to documents and archives. As senior leadership trials are ongoing and others will start soon, we hope that that trend will continue.

The search for and arrest of Ratko Mladić and Goran Hadžić remain the central issue in relation to Serbia's cooperation. My Office remains in close contact with the services in charge of tracking fugitives and closely follows their activities. During my recent visits to Belgrade, I had full briefings on their work.

Developments at the political level in the past year and the new leadership at the operational level have led to an improvement in the professionalism and

the efficiency of the activities to locate and arrest the remaining fugitives. I hope that the political authorities in Serbia will provide all necessary support to the professional work done at the operational level. Cooperation must continue and hopefully will lead to further concrete and positive results.

In my report, I have also expressed my concern with regard to recent negative statements by senior Government officials about the Tribunal's judicial decisions. They seem to be in contradiction with the level of cooperation on the ground.

With regard to Croatia, the remaining and only outstanding issue is the prosecution's request that Croatia provide a number of key military documents related to Operation Storm in 1995. The lack of success of efforts by my Office over a considerable period of time to obtain those documents has required the prosecution to bring the matter before the Trial Chamber.

Croatia was ordered by the Tribunal to conduct an investigation into the missing documents. In response, Croatia submitted several reports, providing, in its most recent submission, additional information on the administrative investigation and supplementary information on the chain of custody of the missing documents. A number of meetings, focusing on those outstanding matters, were held with the authorities. Unfortunately, progress in the lengthy investigation has been limited and, to date, most of the military documents have not been submitted to the Tribunal. We have raised with Croatia our concerns about the focus, manner and methodology of the investigation conducted.

That matter remains pending before the Chamber. The trial has now entered the defence phase and is nearing its completion. It is therefore crucial that Croatia continue to focus its efforts on locating and providing those key documents. I will remain in close contact with the authorities in the hope of achieving further progress in the near future, but I would also like to take this opportunity to thank the Prime Minister for his personal interest and determination to resolve this issue.

With regard to Bosnia and Herzegovina's cooperation, there are no specific outstanding issues in relation to our trials. However, the judicial system of Bosnia and Herzegovina continues to face serious challenges, which could have an impact on its cooperation with the Tribunal. I support all efforts undertaken to strengthen its judicial capacity to cope with the numerous unresolved war crimes cases. In that regard, a national strategy for war crimes processing was adopted last December and is a promising development. Together with representatives of the international community in Bosnia and Herzegovina, I am in favour of maintaining an international presence in judicial institutions, such as the Special Department for War Crimes of the State Court of Bosnia and Herzegovina.

Another priority of my Office is the support to national jurisdictions prosecuting war crimes. Assisting our colleagues in the former Yugoslavia in successfully conducting war crimes prosecutions remains a key component of the completion strategy. It is the best way to ensure the successful continuation of our work.

In the next months, we will complete the process of transferring investigative material to national prosecution services. We are now ready to transfer three cases involving 10 suspects to the Office of the State Prosecutor in Bosnia and Herzegovina. The last four cases, involving 11 suspects, will be transferred to Bosnia and Herzegovina before the end of the year.

Responding to requests for assistance and making available documents and archives are other important aspects of that cooperation. We are providing such information to prosecution offices, both within and outside of the former Yugoslavia. In the past six months, our transition team has handled over 90 requests for assistance. Interestingly, half of those requests originated from countries outside of the former Yugoslavia.

Although cooperation between prosecution services is improving, national judiciaries continue to face significant legal obstacles and challenges with regard to the prosecution of war crimes cases. Prohibitions on extraditing one State's nationals to another State and the legal barriers to transferring war crimes cases between States threaten their successful investigation and prosecution. All authorities concerned should address those issues by establishing the necessary legal frameworks. That appears to be the only way to avoid an impunity gap.

My Office has participated in several conferences with prosecutors from the region to strengthen cooperation in judicial matters between States of the former Yugoslavia. One important recent achievement

in that process are databases and inventories of war crimes cases in the region. Another important development, which I announced during my last briefing, is the establishment, with the support of the European Commission, of a concrete cooperation project that allows prosecutors from the region to be integrated into our Office in The Hague. The first liaison prosecutors are expected to start working in my Office this month. That initiative, like others, reflects the excellent interaction my Office has had with the State and War Crimes Prosecutors' Offices in Bosnia and Herzegovina, Croatia and Serbia.

I would now like to briefly address the organizational plans of my Office for the future. A serious downsizing programme has been planned to begin in 2010. In our budget proposal, which was submitted to the Secretariat this week, we envisage, over the next two years, a reduction of 60 per cent of our posts and a 42-per-cent reduction in non-post items in the Office of the Prosecutor. There will also be a gradual redeployment of posts from the Trial Division to the Appeals Division to meet their growing workload.

While we are fully committed to the downsizing process, I would like to once again stress the need to retain our experienced and specialized staff members in order to complete our work. In the present situation, a considerable number of staff members have left my Office and more could leave the institution because of other opportunities elsewhere. It is therefore crucial that their needs be taken into consideration and that ways be found to retain our staff members until the end of the trials. Together with the President and Registrar, we will continue to address those issues with relevant United Nations bodies and Secretariat offices.

Finally, I would like to thank the Council once again for the continuing support provided to my Office.

The President: I thank Mr. Brammertz for his briefing.

I now give the floor to Mr. Hassan Bubacar Jallow, Prosecutor of the International Criminal Tribunal for Rwanda.

Mr. Jallow: Since our last report to the Security Council, in December 2008, intense activity has continued at the International Criminal Tribunal for Rwanda (ICTR) towards the implementation of the Tribunal's completion strategy, and we remain firmly committed to the expeditious and proper completion of our mandate to bring justice to Rwanda in the light of the genocide of 1994.

Within the past six months, the prosecution has commenced the trial of four new cases, one of which has just been completed, and gradual progress has been made in respect of the other cases. The prosecution has already closed its case in two of those cases after very, very brief trials. In addition, the ongoing trials in the multiple-accused case of *Karemera et al.* and the single-accused case of *Setako* are moving towards finalization. Of the six detainees currently in detention awaiting the scheduling of their cases for trial, the prosecution has prepared those cases and is ready to proceed once they are scheduled.

During the same period, seven new cases and appeals have also been filed with the Appeals Chamber, and now there is a total of 11 such cases pending appeal which are being dealt with by the Office of the Prosecutor for hearing.

However, despite the intense activity of the ICTR tracking team, no further arrests of any of the 13 outstanding fugitives have been secured in the past six months. Our focus in the next six months will thus be: the conclusion of the ongoing trials; the commencement of the trials of the remaining detainees, as and when they are scheduled and in respect of which, as I have said, we are trial-ready; the intensification of our tracking efforts, to secure the arrest and transfer of the fugitives to the ICTR for trial or for transfer elsewhere; renewed efforts for the referral of some cases by the ICTR to Rwanda and to other competent national jurisdictions; and the exploration of new measures to preserve the evidence for the trials of at least the four high-level fugitives who have been earmarked for trial in Arusha, when they are eventually arrested.

The arrest of Félicien Kabuga continues to be a top priority for the ICTR. Council members have been briefed regularly on the efforts to effect his arrest and his transfer to the Tribunal. Incontrovertible evidence collected by the Joint Task Force comprising Kenya police and ICTR investigators indicates that Félicien Kabuga entered Kenya in 1994 and was granted a residence permit as well as a permit to carry out business in that country. He, as a result, purchased property; he registered businesses in his own name as well as in the names of others; and he opened various

bank accounts in his name with various banks in Kenya. The reports of the Joint Task Force also document several reported sightings of Kabuga in Kenya over a long period.

For several years now, the ICTR has been engaged in securing the cooperation of Kenya in arresting Kabuga and transferring him to the ICTR for trial, and also in the freezing of his assets and properties located in that country. This has involved several missions to Kenya by ICTR officials, including myself. My latest mission to Nairobi in this regard was in March 2009. So far, one property — the family residence of Kabuga in Nairobi, known as the Spanish Villa — has been the subject of seizure by the Kenyan authorities.

On 8 January 2008, the Director of Immigration of Kenya wrote to the Joint Task Force to inform it that Félicien Kabuga had left Kenya. All efforts, including my recent mission of March 2009, to obtain from the Kenyan authorities the particulars and circumstances of his alleged departure from that territory, as well as access to certain governmental records relating to his assets and activities, have been fruitless, as the Kenyan authorities have so far failed to comply with the requests of the Tribunal.

Consultations are also ongoing with the Government of the Democratic Republic of the Congo in order to find ways of effecting the arrest and transfer of the large number of ICTR fugitives in that country. We continue to appeal to the Security Council to call on Kenya, the Democratic Republic of the Congo and all other States to cooperate with the ICTR in the arrest and transfer of these indictees. The Tribunal's legacy, and by extension respect for the impact of international humanitarian law, depends on the ability of the international community to arrest and give a fair trial to all those who have been indicted for these grave atrocities against their fellow human beings.

The cooperation of Member States where fugitives from justice have been located is critical. Closure of the Tribunal without the arrest or without the transfer of these fugitives offers the real danger of maintaining an impunity gap that will be difficult to fill. It is all the more urgent therefore that Member States fully cooperate and that the international community provide additional support — especially in the case of the Democratic Republic of the Congo, and pressure in the case of Kenya — to these Member States to ensure the immediate capture of the fugitives and their transfer to Arusha for trial.

Following the Appeals Chamber decisions rejecting referral of cases to Rwanda for trial under rule 11 bis of the ICTR Rules, the Government of Rwanda is in the process of enacting — indeed, I am advised that it has enacted — additional legislation to meet the remaining concerns of the Appeals Chamber in relation to the protection of witnesses and the recording of testimony of witnesses who may be reluctant to travel to Rwanda to testify. Once the law comes into force and the capacity is established for witness protection and video link facilities, my Office will again consider making further applications before the Trial Chambers in the course of this year for the referral of cases of ICTR indictees to Rwanda for trial.

As the concerns of the Trial and Appeals Chambers relate to legal as well as capacity issues, I would urge the Council to call upon Member States to redouble their efforts in support of capacity-building for the Rwandan legal system. Rwanda has had the onerous burden of dealing with the cases transferred not only from the Tribunal but also possibly from other national jurisdictions, as well as many other domestic cases of genocide, war crimes and crimes against humanity.

Rwanda, I must acknowledge, has also accomplished much in this area: the abolition of the death penalty; the incorporation of additional fair-trial guarantees in law; the upgrading of facilities; and the training of personnel, with the assistance of the Tribunal. Those positive efforts for capacity-building in the legal sector should be encouraged.

The continued and prolonged evasion of justice by the fugitives also poses a challenge to the proper administration of justice, even when those fugitives are finally arrested and brought to trial. As shown by our own experience with the current trials that are ongoing, the longer the interval between the commission of these serious crimes, in 1994, and the time of trial, the greater the possibility that much of the evidence may be lost due to the unavailability of witnesses for various reasons — such as death, relocation or just reluctance on the part of the witnesses to be involved after such a long interval.

Yet, understandably, there are no time limits for the prosecution of these offences. The indictees will be prosecuted whenever they are arrested, for so long as

there is evidence available. Some of the indictees are of such a high level that it has been considered appropriate for their trials to be conducted by an international mechanism. The public interest in the proper administration of justice requires that a fair and proper trial not be subverted by the success of the fugitives in evading justice long enough for the evidence against them to possibly disappear, especially where the bulk of the evidence is based on the oral testimony of witnesses, who may no longer be available.

Accordingly, my Office has proposed amendments to the ICTR Rules which would enable the Tribunal to preserve the testimony of witnesses in the cases of the fugitives, and which would enable such evidence to be available in any subsequent trial if the witnesses are not available at that time. The rule change, when adopted, will result in proceedings to take special depositions next year from such witnesses in at least four cases of fugitives. These proceedings are expected to be very limited in duration, and they should not have an adverse impact on the completion strategy.

Building upon the conference of international and national prosecutors held in November 2008, my Office will be hosting the annual prosecutors' colloquium later in the year to discuss the legacy of the International Criminal Tribunals in relation to measures against impunity for mass atrocities. The colloquium will focus on drawing lessons from the past in the administration of international criminal justice and on reflecting on the future of that process at a time when the ad hoc Tribunals are winding down. The Tribunal is currently also focusing more attention on residual matters relating to archives and public access to documents, continuing support for national prosecutions and appropriate administrative closure and reporting.

We remain firmly committed to concluding the trials of current detainees in a timely manner and to making the referral of cases of some detainees and fugitives a success. We do not underestimate the challenges of doing so, in particular in the light of the possible loss of experienced staff as the completion strategy progresses. We nonetheless remain committed to those goals.

I would very much like to thank the Security Council and all the organs of the United Nations for their continued support for the work of the ICTR.

The President: I thank Prosecutor Jallow for his briefing.

I shall now give the floor to the members of the Security Council.

Mr. Sanader (Croatia): Allow me to begin by welcoming President Robinson and President Byron, as well as Prosecutors Brammertz and Jallow. After carefully listening to their reports, I want to reaffirm once more Croatia's firm commitment to continue with the implementation of our Constitutional Act on full cooperation with the International Criminal Tribunal for the Former Yugoslavia (ICTY).

(*spoke in French*)

I should like to underscore the importance that my Government and I myself attach to the work of the Tribunal, as well as the need to achieve the goals for which the Council established the Tribunal. In both our capacity as a member of the Security Council and as one of the main proponents for the establishment of the Tribunal, Croatia will continue to call for and provide full support for the fulfilment of the Tribunal's mandate and for the prosecution of persons responsible for crimes.

(*spoke in English*)

Indeed, the Tribunal is said to be the key force in a process that respects victims by providing justice — a process that, by providing justice, paves the way for a better future, one of peace, security, reconciliation, cooperation and prosperity.

Croatia has gone a long way in that regard. Along that path, we have never forgotten our starting point. We still remember Ovčara and the other 142 mass graves across our country. We still have vivid memories of the complete destruction of Vukovar and the shelling of Dubrovnik, Osijek, Zadar, Gospić and so many other cities and towns in Croatia. We regret that some of the perpetrators of those crimes are still at large. We regret that Goran Hadžić has not yet been turned over to The Hague. We certainly regret that Ratko Mladić is still at large. He and Hadžić are responsible for the gravest crimes committed in Europe after the Second World War, namely, the massacres in Srebrenica and Vukovar. Most of all we regret that the

Milošević indictment came too late, and indeed without a sentence. His death made it impossible for a sentence to clearly outline the development of a policy that used aggression and the systematic application of war crimes.

Yet, our regret has not prevented us from looking towards the future or from rebuilding our country on the premises of respect for human dignity, the rule of law and international justice. In Croatia we made the choice to strengthen our democratic institutions, reform our judiciary and develop a State where nobody is above the law. With that belief and with our commitment to fundamental democratic values, we have succeeded in putting Croatia on the track towards development, reconciliation and progress. We have also strengthened our society internally and strengthened our position in the world. We joined NATO and became a full member of the Euro-Atlantic family of democracies. One of the conditions for achieving that goal was full cooperation with the ICTY.

We are glad that in his report (see S/2009/252) the Prosecutor confirmed Croatia's overall good cooperation with the ICTY. With regard to a single case pertaining to the delivery of documents, Croatia differs with the Prosecutor's assessment. While fully cooperating with his Office, we also note that, according to the ICTY rules of procedure, the Prosecutor is a party during the judicial proceedings. It is for that reason that, pursuant to the rules of procedure of the ICTY, Croatia has submitted to the Trial Chamber a request to confirm the fulfilment of Croatia's obligations in providing the requested documents or establishing their chain of custody. In the meantime, Croatia will continue to fully cooperate with the Prosecutor's Office.

Croatia will continue to support the Tribunal, in the belief that the ICTY is serving the purpose for which it was established by the Security Council. As a member of the Security Council and as a member of NATO and a future member of the European Union, Croatia will actively support the achievement of those goals, fully aware that they will be the measure to define the Tribunal's legacy. Croatia very much appreciates and supports President Robinson's and the Tribunal's efforts to ensure the early and orderly completion of its work. The Tribunal has now entered a critical period, in which it will be necessary to begin to downsize while continuing to work on the remaining cases and on the transition towards an appropriate infrastructure that will take up the Tribunal's residual functions in the future.

Finally, let me repeat the message that I delivered two years ago at the General Assembly. Everybody everywhere should have no doubt that any and all crimes against humanity will not be allowed to go unpunished. That is our common responsibility. Only then can we create a better world for posterity.

Mr. Mayr-Harting (Austria): At the outset, Mr. President, I would like to congratulate you and Turkey on taking over the presidency of the Security Council for the month of June. I would also like to thank the Presidents and Prosecutors of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) for their briefings.

In my statement today, I will first say a few words about our national position regarding the completion strategies of the Tribunals. Secondly, following the practice of my Belgian predecessor, I would like to take this opportunity to give an update on the activities of the Security Council informal Working Group on international tribunals, which Austria has chaired since the beginning of this year. I therefore ask for the President's forbearance, as I might need one or two minutes longer than if I were to limit myself exclusively to the national part of my statement.

Austria strongly supports all efforts to strengthen international criminal justice, including through the International Criminal Court, ad hoc or mixed tribunals and truth commissions. We must ensure that those responsible for the most serious crimes are held accountable and brought to justice. We commend the ICTY and the ICTR for their pioneering role in combating impunity and for their contribution to the development of international criminal law and international humanitarian law.

Austria fully supports the efforts of the Tribunals to complete their work at the earliest date and to accomplish the completion strategy pursuant to resolutions 1503 (2003) and 1534 (2004). We note that, according to current projections, the Tribunals will not be able to meet the date set forth in the completion strategy but expect to complete their work by 2013. We urge the Tribunals to take all possible measures to complete their work expeditiously while maintaining all standards of fair trial and due process.

The arrest of the remaining fugitives remains a top priority for the completion of the Tribunal's work. We call on all States in the region, especially those where fugitives are suspected to be at large, to fully cooperate with the Tribunals. Austria welcomes Serbian efforts in tracking the fugitives Ratko Mladić and Goran Hadžić and hopes that positive results will be achieved in the near future.

We also welcome the efforts made by the Croatian Government — in particular by you, Mr. Prime Minister, and the Minister of Justice — and hope that these efforts will lead to a further strengthening of the constructive dialogue with the ICTY Prosecutor. Allow me to add, Mr. Prime Minister, that my Government is fully aware of your long-standing personal commitment to full cooperation with ICTY. We know that you have pursued this course since you took office, and we also know that under sometimes considerable difficulties, your commitment was instrumental in locating Ante Gotovina and transferring him to The Hague.

The referral of cases to competent national jurisdictions is an essential part of the completion strategy. However, it must be ensured that all referred cases are administered in a fair, impartial and even-handed manner. It is also essential that effective measures be in place to protect witnesses, enforce sentences and take action against those helping fugitives evade justice. We note that the ICTR Trial and Appeals Chambers have denied the transfer to Rwanda of all five cases requested by the Prosecutor. We hope that Rwanda's efforts to improve its judicial system and witness protection will enable the Prosecutor to re-apply for a referral of cases.

I would now like to give a brief update on the activities of the Informal Working Group on international tribunals since the beginning of this year. Since January 2009, the Working Group has held 12 meetings to discuss the establishment of a residual mechanism or residual mechanisms to carry out certain functions of the Tribunals after their closure.

Another meeting of the Working Group with the Presidents and Prosecutors present here today will take place this afternoon. There is agreement among the members of the Working Group that the most senior fugitives of the Tribunals must face international trial by the mechanisms. We also agree that the legacy and archives of the Tribunals must be preserved. It is further agreed that the mechanism or mechanisms will have a trial capacity to try fugitives from the ICTY and ICTR based on a roster of judges. The mechanism or mechanisms is or are to be small, temporary and efficient, commensurate with a reduced workload in the post-completion period.

The Working Group has continued with an in-depth examination of the eight residual functions identified by the Tribunals as essential and to be carried out after their closure: trial of fugitives; trial of contempt cases; protection of witnesses; review of judgments; referrals of cases to national jurisdictions, including revocation; supervision of enforcement of sentences; assistance of national jurisdictions; and maintenance of archives. Discussions on whether all or only some of these functions should be carried out by the mechanism or mechanisms are still ongoing.

The Working Group has also discussed the potential commencement date or dates of the mechanism or mechanisms, as well as its or their structure. This includes important issues such as whether there should be one or two mechanisms, or one mechanism with two branches, and the related questions of the possible co-location of the Tribunals' archives with the mechanism or mechanisms and its or their location. The discussions were informed by chairmen's non-papers, with input by the Tribunals, which were produced with the most valuable assistance of the Office of Legal Affairs.

The members of the Working Group also had an informal exchange of views with the members of the Management Committee of the Special Court for Sierra Leone. The Chair plans to convene informal meetings with representatives of the States of the former Yugoslavia and Rwanda and the host countries of the Tribunals, the Netherlands and Tanzania.

The Presidents of ICTY and ICTR have made a number of written requests related to the completion strategies, including the enlargement of the Appeals Chamber through the redeployment of trial judges, the extension of the judges' mandates and, as a temporary measure, the appointment of an additional ICTY ad litem judge in addition to the 12 ad litem judges authorized by the statute. These requests are currently being considered by the Working Group.

In its presidential statement of 19 December 2008 (S/PRST/2009/47), the Security Council requested the Secretary-General to present a report on the

administrative and budgetary aspects of the options for the possible locations for ICTY and ICTR archives and the seat of the residual mechanism or mechanisms for these Tribunals. It is my understanding that the report has been finalized in substance and will be published as an official Security Council document once it has been translated into all official United Nations languages. We intend to start discussing the content and recommendations of the report in the Working Group later this month. Subsequently, the Group will resume negotiations on the draft Security Council resolution to establish the mechanism or mechanisms.

In conclusion, I would like to thank the Presidents, permanent and ad litem judges, Prosecutors and Registrars of the ICTY and ICTR and all their staff for their tireless efforts in the name of international justice. Our special thanks go to the Office of Legal Affairs, the expertise and assistance of which is indispensable for our work.

Finally, I would also like to thank all the members of the Working Group for their active and constructive contributions to our discussions.

The President: I thank the Permanent Representative of Austria for his extensive briefing, and I thank him and his Group for the work that they are doing.

Mr. Le Luong Minh (Viet Nam): First of all, on behalf of the Vietnamese delegation, I warmly congratulate you, Mr. President, and the Turkish delegation on your assumption this month of Turkey's first presidency of the Council. In discharging your important task, you and your delegation can rely on the fullest cooperation of the Vietnamese delegation.

I would like to take this opportunity to convey to Ambassador Vitaly Churkin and the Russian delegation our sincere appreciation for their very effective leadership of the work of the Council in May.

I thank the Presidents and Prosecutors of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) for their briefings. We thank the Tribunals for their very comprehensive reports and for the amount of work they have been able to accomplish, and note their commitment to continuing their efforts to expedite the completion of their mandates.

According to their most recent projections, both Tribunals will be conducting first instance trials beyond the end of 2009 and appellate proceedings after 2010. While acknowledging that there have been unexpected and uncontrollable factors that have caused the delay of trials, my delegation is concerned about the continuing lateness in transferring accused to the custody of the Tribunals, and about the fact that all requests made by the ICTR Prosecutor for referrals to Rwanda have been denied and that both Tribunals are faced with difficulties in retaining their current, highly qualified staff.

In resolution 1534 (2004), the Security Council expressed its determination to review the implementation of the completion strategies of the Tribunals and to ensure that the time frames set out in the completion strategies and endorsed by resolution 1503 (2003) could be met. While assessments and decisions of the Council have been and will be made in accordance with corresponding realities, we deem it necessary to urge the Tribunals to take all necessary measures to meet the requirements of the completion strategies, and we call on all Member States to cooperate fully with the Tribunals to help them achieve an early completion of their work. We support all efforts aimed at strengthening the competent national judicial systems to facilitate the transfer of cases involving intermediate and lower-rank indictees, including the fugitives, from the Tribunals to national jurisdictions.

During the past 18 months, the Informal Working Group of the Security Council on international tribunals, under the chairmanships of Belgium and Austria, has been intensively discussing a possible residual mechanism to replace the ICTY and the ICTR in their post-completion period. We support the efforts made by the Working Group in this regard and consider them to be important inputs for further informed decisions by the Council on the completion strategies for the Tribunals.

In conclusion, we are at a critical juncture of our joint undertaking for the smooth and effective completion of the Tribunals' work. We need to ensure that the two Tribunals receive all necessary guidance and support, including sufficient resources to complete their mandates and address their legacy issues as advisedly as possible.

Mr. Liu Zhenmin (China) (*spoke in Chinese*): The Chinese delegation wishes to congratulate Turkey on its assumption of the presidency of the Security Council for this month. We also wish to express our gratitude to the Russian Federation for its presidency of the Council last month.

On behalf of the Chinese delegation, I wish to thank President Robinson and Prosecutor Brammertz of the International Tribunal for the Former Yugoslavia for their briefings on the activities of the Tribunal. We also thank President Byron and Prosecutor Jallow of the International Criminal Tribunal for Rwanda (ICTR) for their briefings on the activities of the Rwanda Tribunal.

Since the completion strategies of the two Tribunals were endorsed by the Security Council, they have worked hard to implement the strategies and continue to make progress, as borne out once again by the advances achieved during the reporting period. We express our appreciation and acknowledgement of that progress, but given the trials still under way in the two Tribunals, the schedules set out in the completion strategies will have to be pushed back. Of course, many factors have contributed to the delay. We hope that the two Tribunals will be more proactive in building on past work by intensifying their efforts and adopting an innovative approach to improving their working methods so that a breakthrough can be achieved. All available resources must be fully utilized to improve the efficiency of the trial process and thereby accelerate it.

In the meantime, we continue to believe that the transfer of cases and accused to national jurisdictions is an important step in the implementation of the completion strategies. We are pleased to note that the Tribunals have reaffirmed that idea in their reports. The ICTR Prosecutor has made very specific suggestions in that regard. We hope that the two Tribunals, and the ICTR in particular, will step up their activities in that respect so that the concept can be effectively implemented, ensuring the transfer of as many cases and accused as possible.

The Informal Working Group has continued to study the question of the legacy and residual functions of the Tribunals. I wish to thank the Ambassador of Austria for his concise but comprehensive briefing on the work being undertaken. The presidential statement issued by the Security Council on 19 December 2008 (S/PRST/2008/47) referred to this issue, noting that the proposed ad hoc mechanism should be small, temporary, and efficient. That basic principle has always guided the Working Group's consideration of the matter. We are in favour of identifying a feasible and economical plan on that basis. We also favour the provision by the two Tribunals of advice and proposals to the Informal Working Group during the current reporting period. Some of their proposals are constructive and reflect innovative thinking. We reiterate our readiness to adopt a positive approach to the consideration of any plan that would help speed up the implementation of the completion strategies.

The Secretary-General shall submit, upon the request of the Security Council, a report on the administrative and budgetary issues related to the residual mechanism. We are confident that it will facilitate the ongoing work of the Informal Working Group. We understand that the preparation of the report is no easy task. We thank the Secretariat for its efforts and look forward to receiving that document at an early date.

The completion strategies, as endorsed by the Council, are an overarching goal and should be pursued at every phase of the process. In recent years, the two Tribunals have made some progress in the implementation of the strategies, but the work ahead is enormous. We expect the Tribunals to continue to work in that direction.

Mr. Parham (United Kingdom): First, let me congratulate you, Sir, on your assumption of the presidency of the Council this month, and say how much we look forward to working with you and your Mission. We assure you of our support. I should also like to thank Ambassador Churkin and his Mission for their skilful presidency of the Council last month.

I welcome Presidents Byron and Robinson and Prosecutors Jallow and Brammertz to the Council, and thank them for their briefings on the implementation of the completion strategies of the International Criminal Tribunals for the former Yugoslavia and Rwanda. These reports indicate that the work of the two Tribunals is not now likely to finish until 2013, at the earliest. My Government appreciates that both Tribunals continue to face significant challenges in completing their work. Some accused have been arrested at a late stage. Both Tribunals still have heavy caseloads, including complex multi-accused cases.

Trials have been delayed due to the ill health of some accused, and there have been large numbers of contempt cases. These are just some of the issues being faced.

Nevertheless, the slippage in the completion timeline is of concern. My Government acknowledges the efforts which have been made so far by the principals of the Tribunals and their staff to facilitate completion, but we emphasize that it is vital that both Tribunals continue to do everything possible to minimize further delays in a manner consistent with delivering fair trials for all the accused, including by exploring and implementing further efficiency measures.

We hope that the Tribunals will continue to maximize the use of available judicial time and courtroom space. At the same time, we believe that it is important for the Security Council to support the Tribunals and to take the necessary decisions to allow them to complete their work, including by granting appropriate extensions to judges' mandates and allowing the redeployment of judicial staff to the Appeals Chamber.

We recognize the two Presidents' continuing concerns about staff retention as the Tribunals near completion. These issues are not primarily matters for the Security Council; however, we would encourage the Tribunals to explore non-monetary incentives to retain staff, particularly by awarding contracts in line with completion time scales, as decided by the General Assembly.

Full and effective cooperation from States is critical to ensuring that the Tribunals are able to fulfil their mandates. My Government warmly welcomes Prosecutor Brammertz's report of improved cooperation by Serbia on access to documents and in operational-level efforts to locate the fugitive indictees Ratko Mladić and Goran Hadžić. Overall, my Government believes that Serbia has now established a strong record of cooperation which should be recognized. So we regret that this record has on two recent occasions been undermined by contradictory public messages from Serbia accusing the Tribunal of bias. We hope that the Serbian authorities will in future avoid such remarks, which could otherwise negatively affect the willingness of Serbian citizens to assist the Tribunal as witnesses or by providing other information.

My Government is disappointed, however, that Croatia has still not been able to deliver a range of key documents for Gotovina trial. We fully support the Prosecutor's efforts to pursue this issue. We call on Croatia to maintain the search for missing documents and for its administrative investigation to be backed up by criminal charges where there is evidence of illegal removal or destruction of documents. This remains an area where further work is needed against a background of otherwise solid cooperation.

As regards cooperation with the International Criminal Tribunal for Rwanda (ICTR), we note with concern Prosecutor Jallow's oral report that problems of cooperation with Kenya remain unresolved. It is vital that all States where fugitive indictees are suspected to be at large, particularly Kenya and the Democratic Republic of the Congo, provide full and immediate cooperation to facilitate their arrest and surrender to the Tribunal. Those who have committed serious crimes in Rwanda must face justice.

The two Tribunals have made an enormous contribution to restoring peace and security in their regions through combating impunity for the most serious crimes. Their legacy must be preserved after the Tribunals close their doors. A key element of this will be the establishment of an effective and sustainable residual mechanism to carry out core residual functions, including the prosecution of remaining fugitive indictees.

We look forward to intensifying our discussion of these issues in the light of the forthcoming report of the Secretary-General and with a view to reaching agreement this year on the residual mechanism's structure and remit.

Mr. Churkin (Russian Federation) (*spoke in Russian*): Allow me to thank the leadership of both Tribunals for their briefings and for the reports they have submitted to the Security Council on their completion strategies.

We note that the International Criminal Tribunal for Rwanda (ICTR), notwithstanding existing difficulties, has worked fruitfully over the past six months. During that period, four judgments have been rendered with respect to seven accused and, in six cases featuring 14 accused, hearings have been concluded. The Tribunal is also planning by the end of 2009 to complete the most labour-intensive and protracted phase — the submission of evidence — in

all outstanding trials of first instance with one exception.

Regrettably, the results of the work of the International Criminal Tribunal for the Former Yugoslavia (ICTY) are unimpressive. In the reporting period, only one judgment has been rendered, and that was in a trial that ended in August 2008. In the ICTY case files, there remain four cases in respect of six accused for which hearings have not even begun. The accused in these cases have been at the disposition of the Tribunal since June 2003 — six years in custody and yet hearings have not even begun. We consider that situation unacceptable and a violation of civilized standards of justice and commonly accepted human rights norms. It is all the more difficult to understand given that the ICTY has the legal option of transferring cases to national jurisdictions.

We are also bewildered by the emerging practice of suspending the main court proceedings until contempt cases are resolved. The Tribunal put on a heightened display of principle concerning the safety of witnesses in the case of Vojislav Šešelj, in connection with a book he published, whereas, in the case of Ramush Haradinaj, the former Prime Minister of Kosovo, in which the physical elimination of some witnesses and overt intimidation of others were involved, the Tribunal effectively turned a blind eye to those problems. Protracting the main trials until contempt of court hearings are completed has an adverse effect on the implementation of the ICTY completion strategy.

We cannot fail to be concerned by the assessments in the report of the President of the ICTY on tentative dates for completing first instance hearings and appellate proceedings, extending to mid-2013.

At this stage, the task of ensuring a suitable degree of cooperation between States — first and foremost those of the region — and the Chief Prosecutors of the Tribunals is of particular importance. We have observed some progress in maintaining interaction between the ICTY and Serbia. This was borne out not only by the assessment of Chief Prosecutor Brammertz, but also by the factual material on the matter provided by the Serbian side to members of the Security Council on the eve of our meeting.

One can detect a certain dynamic in relations between the ICTR and the State and judicial institutions of Rwanda. At the same time, the Russian Federation continues to be concerned by the instances, referred to by the Chief Prosecutors, of the failure of States to properly comply with their obligation to cooperate with the Tribunals, including in the provision of documents needed for investigation and tracking the accused. Those factors not only hold up proceedings on specific cases, but have a negative effect in general on the Tribunal's ability to reach objective verdicts.

In conclusion, I wish once more to reaffirm the position of the Russian Federation that both Tribunals should be guided by the time frames laid down by the Security Council and do everything possible to ensure that the bulk of their work is completed by the end of 2010. The failure to bring a number of accused before the ICTR and the ICTY cannot be viewed as justification for the unlimited extension of the activities of those organs. Given the looming deadlines, we will seek the best options for the proposed mechanisms for the Tribunals' residual functions. In that context, we wish to thank Ambassador Thomas Mayr-Harting for the effective Austrian chairmanship of the Security Council Working Group on international tribunals. We note progress in the discussion of issues related to the forthcoming completion of work of the Tribunals. My delegation expects that by the end of the year, the Council will manage to draft an agreed text of a resolution on the parameters of the residual functions of those temporary organs of international justice.

Mr. Mugoya (Uganda): My delegation congratulates you, Sir, and Turkey on assuming the presidency of the Council for the month of June, and I assure you of our delegation's full cooperation and support. I also wish to thank Ambassador Churkin and the Russian delegation for ably steering the work of the Council during the month of May.

We thank the Presidents and Prosecutors of the Tribunals for their briefings. Uganda welcomes the Secretary-General's report on the administrative and budgetary aspects of the options for possible locations for the archives of the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda (ICTR) and the seat of the residual mechanisms for the Tribunals.

My delegation appreciates the tremendous work that has been carried out so far by the Tribunals in fulfilment of the relevant Council resolutions. We attach great importance to the work of the Tribunals in

the delivery of justice and the fight against impunity for heinous crimes against humanity, including genocide.

Uganda welcomes the progress made by the Tribunals in spite of the challenges they have faced. From the Secretary-General's report, we have observed that some of the challenges include trial of contempt cases and the protection of victims and witnesses, which require the judicial capacity to sanction any violations of the Tribunals' orders.

Uganda welcomes the recommendation of the Secretary-General that, as part of the completion strategy, the residual functions be transferred to residual mechanisms which would be adequately supported by a structure that can facilitate the fulfilment of the completion strategy. In that regard, my delegation supports the recommendation that the Tribunals refer further cases to national jurisdictions, while strengthening national capacities.

In order to activate the residual mechanisms, it will be necessary to adopt and use the roster of former Tribunal judges, legal officers, prosecution and defence counsel, and other relevant staff. This undertaking will provide support for the institutional knowledge that is essential to the ends of justice and the completion strategy.

Uganda welcomes the recommendation for the location of the residual mechanisms and archives both in Europe and Africa, the regions where the crimes were committed. The basis for this suggestion is that the residual mechanisms will require access to the regional records for each Tribunal, as well as new records that will become available.

Both Tribunals have requested the extension of the mandate of the permanent and ad litem judges, the expansion of their Appeals and Trial Chambers, and redeployment of trial judges. It is understood that a number of cases have yet to be completed, some of the judges have their terms coming to an end, and the status of ad litem judges has raised issues that require urgent attention. Since there is still-unfinished business, Uganda supports these requests for extension.

The ad litem judges have made an invaluable contribution to the functioning of the Tribunals and to the completion strategy. They have been assigned multiple cases and have of necessity been forced to take up permanent residence at the sites of the Tribunals. Their tasks and competencies are identical to those of the permanent judges, and nearly half the judges at the ICTR have served for more than six years. Accordingly, Uganda calls for a review of their terms and conditions of service.

Finally, I would like to thank the Presidents, Prosecutors, judges, ad litem judges and the staff members of the Tribunals for their work, and call on the Council to render the necessary support to ensure the early, smooth and orderly conclusion of the work of both Tribunals.

Mr. Lacroix (France) (*spoke in French*): At the outset, Mr. President, I would like to express our great satisfaction in seeing you assume presidency of the Security Council. We assure you of our support for the Turkish delegation in the exercise of its presidency. We also express our gratitude to the Permanent Representative of the Russian Federation and his delegation for the great skill with which they stewarded the work of the Council last month.

I would like to welcome the presence of the Prime Minister of Croatia, His Excellency Mr. Ivo Sanader, in the Security Council today.

I would also like to thank the Presidents and Prosecutors of the International Criminal Tribunals for Rwanda and the former Yugoslavia for presenting their six-monthly reports. These briefings clearly confirm that the deadline laid down in 2003 and 2004 in the completion strategy for the Tribunals will be missed and that their work will continue beyond 2010. Constraints of procedure, the vagaries of justice, belated arrests of fugitives and, for the International Criminal Tribunal for Rwanda (ICTR), the obstacles to referring low-ranking indictees to national jurisdictions explain this delay in the timetable. Whatever the case, the Security Council must now take into account the reality of a horizon for the completion of appeals delayed until the first half of 2013 and draw the necessary conclusions from that.

The first thing to be done is to equip the Tribunals with the means to carry out the trials and appeals as soon as possible, in full respect for the rules of fairness and justice. In this regard, the joint request of the two Tribunals concerning redeployment of trial judges to the shared Appeals Chamber reflects to real need and must be honoured.

We also welcome the principle of extending the terms of office of permanent and ad litem judges. The Working Group on international tribunals will have to propose modalities for this extension, but we hope that the decision taken by the Council will clearly establish its resolve to ensure that the Tribunals are in a position to carry out their work to the very end.

Affording the Tribunals appropriate predictability is a necessity, especially in order to maintain the quality of staff, whose members, forced into a state of uncertainty, are inevitably tempted to seek more stable jobs. The success of the completion strategy obviously depends on the participation of a qualified and motivated staff, and the current attrition rate is worrying in this regard. The President of the International Criminal Tribunal for the former Yugoslavia (ICTY) made that point earlier.

Once again, I would like to express to the Tribunals and their staff France's appreciation for the considerable efforts that they will have to make in the difficult phase of completing their work. I would highlight with satisfaction the ongoing efforts to improve the management of proceedings, which will make it possible to intensify the rate at which the Trial and Appeals Chambers work.

The activities of the Prosecutors are also essential, especially with respect to tracking down fugitives, whose arrest and transfer to the Tribunals are a priority. The existence of fugitives from justice is one of the main elements of uncertainty looming over the completion strategy, but the mission of the Tribunals will not be fully completed as long as those accused have not been arrested and tried.

We are firmly committed to the principle that those responsible for the most heinous crimes must be tried by the International Criminal Tribunals. The arrest of Mr. Karadžić was a major breakthrough for the ICTY. We now await those of Mr. Mladić and Mr. Hadžić, and we note with satisfaction Prosecutor Brammertz's positive assessment of the cooperation of the Serbian authorities in this connection. Once again, I would like to recall that full cooperation with the ICTY, be it in the search for fugitives or the conduct of proceedings, is an essential element of the stabilization and association strategy vis-à-vis all the countries of the region of the former Yugoslavia, which is a strategy that the European Union is pursuing. We call on all of these countries to extend all necessary assistance to the Tribunal.

With regard to the International Criminal Tribunal for Rwanda, 13 accused, four of whom are high-ranking indictees, are still at large. We call on all States concerned to afford Prosecutor Jallow the requisite cooperation. In particular, we call on Kenya to honour its obligations to arrest and hand over Félicien Kabuga to the ICTR.

We hail the efforts made by Rwanda to reform its legislation in order to lift all legal obstacles to transferring cases to its jurisdiction and allowing low-ranking fugitives not to be tried by the Tribunal. I would like to recall that if the fugitive issue is not resolved quickly, it will have to be dealt with in the context of managing the legacy of the Tribunals, because it would be unacceptable for their closure to represent impunity for fugitives. This function will fall to the management mechanism for the essential residual functions to be established after the Tribunals are closed.

The Council's Informal Working Group on international tribunals has continued to work on this issue under the efficient stewardship of Austria. The past six months have made it possible for the Group to deepen its consideration of the subject with the participation of new Council members and the very useful contribution of the Secretariat's Office of Legal Affairs. I would also like to thank the Presidents, Prosecutors and Registrars of the two Tribunals for continuing their excellent cooperation of the Working Group.

The Permanent Representative of Austria made a specific point a moment ago on the state of play in the Working Group. I shall not dwell on that point. My delegation would simply like to stress that my country takes part in its work in the hope that the Council will in due course adopt a decision conducive to fully safeguarding the integrity of the Tribunals' legacy. It would be inadmissible for the United Nations to neglect its duty to ensure that the residual functions necessary to the administration of justice will be guaranteed after the end of the Tribunals under its auspices and in the context of an effective mechanism.

Various possibilities can be contemplated for devising this mechanism, which will need to be appropriately modest and lean. But it is essential that it allow the judicial work of the two Tribunals to go on

uninterrupted and in respect for the highest demands of fairness and justice.

The ICTY and the ICTR have embodied the international community's rejection of impunity for the most serious crimes against the human conscience. They must conclude their task soon, and it is up to the Council to adopt decisions conducive to fully ensuring their legacy.

Mr. Gouider (Libyan Arab Jamahiriya) (*spoke in Arabic*): Let me assure you, Mr. President, of our delegation's full support for your leadership of our work in the Council this month. We would also like to pay tribute to the efforts to the Russian presidency of the Council last month.

At the outset, allow me to welcome the presence among us today of the two Presidents of the International Criminal Tribunals, Judges Patrick Robinson and Dennis Byron, and Prosecutors Serge Brammertz and Hassan Bubacar Jallow. We thank them not only for their comprehensive briefings but also for the excellent work they have done and continue to undertake with their teams.

We need not recall resolution 1503 (2003) on the completion strategies for the two Tribunals, or remind the Tribunals that they must take all necessary measures to complete their trials by 2010, nor yet underscore resolution 1534 (2004), which stresses the importance of the full implementation of the strategies.

There is no doubt that the briefings we have just heard attest to the tangible progress in implementing the provisions of the strategies. That having been said, we note that circumstances have arisen beyond the control of the two Tribunals, leading to an unprecedented increase in the workload of both Tribunals that has important implications for the timeframe of the completion strategies and the resources needed for their full implementation.

Like other delegations, we wish to underscore the importance of the Tribunals completing their work as soon as possible without, naturally, undermining the imperatives of justice. In our view, it is also necessary to provide them with the financial and human resources support they require. It is would also be desirable for us to look favourably on the requests that they have recently submitted along those lines. Indeed, it is clear that implementing the completion strategies will require extending mandates, expanding certain Chambers and redeploying judges, while ensuring that qualified administrative and judicial staff are working in motivating conditions that are also satisfactory at the contractual level, given the fact that the two Tribunals are facing serious difficulties in retaining qualified personnel.

Furthermore, we reiterate the need for ongoing efforts to transfer or refer cases to national jurisdictions in the context of the completion strategies. We are fully aware of the obstacles confronting the Tribunals' efforts, in particular in the case of the International Criminal Tribunal for Rwanda, as the President of that Tribunal pointed out in his remarks. Such referrals to national courts would lighten the Tribunals' caseload and facilitate the transfer of their archives. The archives could well turn out to be more important than the judicial proceedings in framing the history of those events and facilitate national reconciliation with respect to the events that took place. In addition, the assumption of these cases by national jurisdictions would reflect the principles of the rule of law and fairness.

We are aware that circumstances have changed since the two Tribunals were established at the end of the last century. They were set up as ad hoc bodies in the context of temporary measures aimed at restoring and safeguarding peace and security in the countries concerned. Today, those countries, which were the scenes of crimes and remain the sources of witnesses and evidence, enjoy peace and security. They have seen their judicial capacities strengthen and their legislations develop, allowing them to be seized of such trials and cases within the framework and principles of impartial justice that enjoys the support and assistance of the international community.

In conclusion, implementing the completion strategies for the Tribunals' work is closely linked to the need for the Council to decide as soon as possible on the legacy of the two Tribunals and the remaining trials following completion through well structured international mechanisms whose future functions and resources are clearly defined. The Informal Working Group on international tribunals is working precisely to that end under the chairmanship of the Austrian delegation. We would like to underscore and commend the excellent work being done by the Working Group with the support of the Secretariat and, in particular, of the Office of Legal Affairs.

We also commend the praiseworthy efforts of the two Tribunals. We greatly hope that those efforts bear fruit and that we shall reach the best possible solutions as soon as possible.

Mr. Kafando (Burkina Faso) (*spoke in French*): Allow me at the outset, Mr. President, to welcome the Minister for Foreign Affairs of your country and to take this opportunity to congratulate you on Turkey's assumption of the presidency of the Security Council for this month. I also wish to commend Ambassador Churkin and his team for their effective conduct of the presidency of the Security Council last month. I should also like to welcome the Prime Minister of Croatia and, of course, to thank the Presidents and Prosecutors of the International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Tribunal for the Former Yugoslavia (ICTY) for their briefings and their very eloquent advocacy. I would not want to fail to thank Ambassador Mayr-Harting for the comments he has just made with regard to the work of the Security Council's informal working group on international tribunals, over which he so effectively presides.

Recent months have seen intense activity for the ICTR and the ICTY, as well as for the Trial and Appeals Chambers. The briefings that we have just heard from the Presidents and Prosecutors reveal that the Tribunals took practical steps that made it possible to make tangible progress with regard both to the treatment of issues and to the management of procedures and staff and the use of judges. They have done all that effectively and while keeping in mind the demands of the deadlines set by the Security Council. We encourage them to continue their outreach and capacity-building efforts, in particular through the establishment of information and documentation centres.

Above all, we call on them to continue to work along the same lines, given that the information available to us indicates that, for instance, the ICTR is currently facing an unprecedented rise in the volume of its work. We believe that, in order to address that workload, the ICTR should make every additional effort necessary to send cases of lower ranking accused to national jurisdictions. We believe that option to be an important component in implementing the completion strategy for the Tribunal that was adopted by the Security Council.

Likewise, the international community, and the States of the subregion in particular, should provide unwavering support and cooperation to the Tribunal in finding and arresting the 13 remaining fugitives, especially high-ranking accused, who must necessarily be tried by the Tribunal. It seems crucial to us that the primary persons responsible for the Rwandan genocide should be tried by the Tribunal established for that purpose.

Statistics concerning the ICTY indicate that the Tribunal is far along in its completion strategy. We are very pleased at the successful transfer of cases, not only because of its impact on the implementation of the completion strategy but also because it will make it possible for lower ranking indictees not to have to wait too long for decisions in their cases. We call on the Prosecutor to continue to follow such cases very closely.

Given the practical problems facing the Tribunal, we hope that the reassignment of judges and the arrival of an additional ad litem judge will enable the ICTY to continue to intensify the pace of its work in order to complete it within a reasonable time frame. To that end, it is important that the Tribunal's capacity be fully utilized.

Although the deadlines set out by the Council are no longer timely, the Tribunals must nevertheless keep in mind the need for expeditiousness and must, in particular, redouble its efforts with regard to speeding up investigations and trials and reducing delays in the pretrial process, without undermining the quality of its work.

I would like in passing to raise the issue of the status of ICTR ad litem judges, which is a clear concern for the Tribunal's President. Although ad litem judges were in theory elected to serve on a temporary and ad hoc basis under a three-year mandate, statistics indicate that many of them have worked on a permanent basis for five years or more. It would therefore only be fair to address the issue of the benefits associated with being a judge, which should normally also apply to ad litem judges, given the conditions of their service and the new responsibilities that have been given to them by the Tribunal in accordance with resolution 1855 (2008).

Burkina Faso is following with interest the work of the Security Council's informal working group on tribunals, which has held intensive discussions

pertaining to the list of residual functions, the character and structure of the residual mechanisms and the issue of the Tribunals' archives. It would now be desirable for the possible options agreed by the group's members to be included in a draft resolution to be submitted to the Security Council for a decision as soon as possible. As to the size of the residual mechanism, we believe that the working group's discussions should, as a matter of priority, consider the issue of two separate mechanisms, or one mechanism with two distinct arms, so as to take into account the basic differences between the Tribunals and the level of implementation of their respective completion strategies. In any case, everything points to the fact that the discussion of this issue will not produce a result unless the Tribunals first take steps to reduce their tasks in line with the progress made in their respective completion strategies.

We take note of the discussions pertaining to the issue of the management of the Tribunals' archives. We believe that, although they are the property of the United Nations, the archives also constitute historical memory and, as such, are part of the patrimony of the countries where the tragedies that led to the establishment of the ad hoc Tribunals occurred. We believe that the proposals of the working group with regard to where the archives are to be housed should take into account that basic point, as well the issues of security and accessibility.

We believe that all the issues taken up by the informal working group cannot be solved at once. It would therefore be desirable to adopt a selective and gradual approach, rather than a comprehensive one.

Mr. Heller (Mexico) (*spoke in Spanish*): At the outset, Sir, allow me to congratulate you on your assumption of the presidency of the Security Council for this month. I should also like to commend Ambassador Churkin of the Russian Federation for his presidency in the month of May. We would also like to say how honoured we are to have among us here today in the Council the Foreign Minister of Turkey and the Prime Minister of Croatia.

My delegation is grateful to the Presidents and Prosecutors of the International Criminal Tribunals for Rwanda and the Former Yugoslavia for their introduction of their biannual progress reports (see S/2009/247 and S/2009/252) on the status of progress on their completion strategies. Both reports describe the concrete measures that the Tribunals have taken to complete their work within a reasonable time frame. Mexico would like to acknowledge the efforts made by both Tribunals to expedite their judicial functions in a responsible and efficient way while also ensuring the crucial goal of meting out justice and preventing impunity for criminal acts over which they have jurisdiction.

Despite such efforts, I should point out that both reports detail for the Security Council the reasons why it is extremely difficult to imagine that the Tribunals will finish their work by the end of this year, as called for by resolutions 1534 (2004) and 1824 (2008). In these circumstances, Mexico believes that the Security Council will have to maintain a pragmatic and flexible approach with regard to the Tribunals' completion strategies. In both cases, they face the challenge of striking a balance between attaining the objective for which they were set up, that is, to judge and to prevent impunity, to ensure efficiency in financial and budgetary matters and to discharge their obligation to uphold the fundamental rights of the alleged offenders, the witnesses and the victims of the crimes under their jurisdiction.

In this regard and as a result of the work carried out by the informal Working Group on international tribunals — our colleague from Austria has given us a very precise and detailed outline of that work — Mexico believes that the completion strategies must continue to adhere to the following interconnected principles.

The first is the gradual completion of the Tribunals' mandate. As mentioned in the reports before us at this meeting, the task of guaranteeing a smooth transition between the closing of the Tribunals and the establishment of the residual mechanism requires great care. In this regard, the deadlines for the conclusion of work, which have been extended, must be realistic and reasonable and must take into account the caseload and the resources at the disposal of both bodies.

In the light of this, Mexico is of the opinion that these deadlines should be viewed as desirable indicative dates, subject to the realities facing the Tribunals in the light of how their respective cases evolve. Of course, this must not be construed as meaning that we believe that the mandate of the Tribunals must be extended indefinitely. We believe that the Security Council must monitor the work of the Tribunals very closely and adapt its decisions

accordingly, so that it can support the gradual winding-down of their work in the most efficient, swift and economical manner possible. We also believe that the most appropriate course of action would be for the Tribunals to conclude their work in the very near future, but not on the basis of arbitrary dates.

The second principle is the referral of new cases to local jurisdictions. One of the key actions for dealing with the caseload of the Tribunals and contributing to the development of capacities for the administration of justice in the States concerned is the referral of new cases to national jurisdictions.

However, to achieve this, it is essential for a number of conditions to be met. One of these is that the characteristics of new proceedings, such as the identity and high rank of the alleged offenders and the gravity of the crimes attributed to them, and the security conditions for participating witnesses and victims actually make that possible. In other words, we support referrals to national jurisdictions except in those cases when the implications are such that it may be necessary to deal with these cases in the appropriate International Tribunal.

Another condition is that there should be certainty with respect to the will and capacity of the local jurisdiction to carry out the trials. Regarding this condition, it is important to underline the fact that the report on the ICTR points out that there are still major challenges before certain basic conditions can be guaranteed in terms of national jurisdictions applying international standards.

The third principle is to continue devising mechanisms that make it possible to reduce the number of judges and the staffing levels in other areas of the Tribunals. In trying to ensure that the gradual winding-down of the work of the Tribunals responds to financial and budgetary concerns, it is important to continue to support the devising of mechanisms, such as those already proposed, to reduce the number of judges on the basis of the procedural stages in which most of the trials currently stand. In this respect, Mexico acknowledges the merit of the proposals put forth by both Tribunals with respect to redeploying judges to bolster the Appeals Chamber, which will be charged with carrying out most of the judicial work in the near future.

Lastly, on the establishment of the residual mechanism or mechanisms that will take on the functions of the Tribunals, Mexico believes that beyond the decision of the Security Council with respect to establishing one mechanism for each Tribunal or a common one — the latter being the option we certainly support — we must continue to consider very carefully and in detail the various aspects of the establishment of such a mechanism, such as its mandate, functioning, composition and budget.

Nonetheless, we wish to emphasize that, even when it is in the midst of such painstaking considerations, the Council should not fail to keep its focus on the main objective, which is to guarantee that justice is done vis-à-vis the perpetration of the crimes and atrocities committed during the conflicts in the former Yugoslavia and Rwanda and to combat impunity for the most heinous crimes against humanity.

With these considerations, Mexico will continue to work over the coming months to contribute to the successful implementation of the completion strategies of both Tribunals.

Mr. Okuda (Japan): Since this is the first time that my delegation takes the floor in this Chamber under your presidency, Mr. President, allow me to start my remarks my congratulating you, Ambassador İlkin, for your assumption of the presidency of the Security Council. I would also like to take this opportunity to express my appreciation to the Russian representative and his staff for the very professional way in which they conducted the work of the Council during the month of May.

At the outset, I would like to express my appreciation to the Presidents and the Prosecutors of the respective Tribunals for briefing us on the most recent developments concerning their completion strategies. The contribution of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) to the development of international criminal law cannot be overstated. In this regard, we would like to extend our appreciation to all the judges, Prosecutors and staff members for exerting their utmost efforts to ensure the fair and expeditious operation of these important judicial bodies.

Today's briefings clarified the estimated timetables for future proceedings. Japan has been expecting and strongly urging the Tribunals to complete all judicial proceedings in 2010, in accordance with resolution 1503 (2003). Based on

today's reports, we have to admit that meeting these goals is no longer realistic. Nevertheless, we strongly encourage the Tribunals to continue their efforts to complete their work as expeditiously as possible, hopefully by the end of 2012 rather than the latest estimated completion date of mid-2013.

We have heard that the Tribunals' requests for measures such as the extension of the terms and redeployment of some of the judges, which are necessary to accomplish the completion strategy in an expeditious and cost-effective manner. Based on this understanding, Japan is prepared to work on the necessary measures to be taken by the Council at this stage.

Resolving the issue of the fugitives is of paramount importance for the success of the Tribunals. It is regrettable that two suspects indicted by the ICTY and 13 by the ICTR, including Kabuga, have yet to be apprehended. We encourage the relevant States to cooperate in order to arrest them as soon as possible. It is also unfortunate that the transfer of cases to national courts has not been completely successful. However, in the light of further efforts to address this issue on the part of the national courts, we expect that additional transfers will be possible in the near future.

Given that the ICTY and the ICTR were established by Security Council resolutions adopted under Chapter VII of the Charter as exceptional measures, they are facing challenges unique to ad hoc Tribunals, namely, a residual mechanism after completion, which was not fully anticipated at the time they were established. Japan attaches great importance to the rule of law and considers that impunity in cases of the most serious crimes should not be condoned and that the individuals involved should be brought to justice in accordance with international standards. The residual mechanism should serve to this end, while efforts must be made to maintain as cost-effective a system as possible.

Since January this year, there has been an extremely useful and intensive discussion taking place in the Informal Working Group on international tribunals under the chairmanship of Austria, with the assistance of the Office of Legal Affairs. We will continue to take active part in the discussion, paying due attention to the progress of the proceedings at the Tribunals. We also take note of the briefings on the necessity of staff retention for the work of the Tribunals.

Ms. DiCarlo (United States of America): Let me join others in congratulating you, Sir, on assuming the presidency this month. You can be assured that you will have the full cooperation of the United States. I should also like to thank Ambassador Churkin and the delegation of the Russian Federation for their skilful stewardship of the Council in May.

I welcome Presidents Robinson and Byron and Prosecutors Brammertz and Jallow to the Council today and thank them for their briefings. Let me commend them and the Tribunals' judges, registrars and staff for their dedication to justice.

We also note the importance of the Informal Working Group on criminal tribunals, and I should like to commend the work of its Chairman, Ambassador Mayr-Harting of Austria, as well as the efforts of the United Nations Office of the Legal Counsel.

The International Criminal Tribunals for Rwanda and the former Yugoslavia have carried out the vital tasks of fighting impunity and creating a lasting record of atrocities not long past. We recognize the importance of drawing down the Tribunals smoothly and efficiently. We applaud the work that the Tribunals have done thus far to create a durable residual mechanism, and we urge both Tribunals to continue to strive to complete their work at the earliest possible date.

The goal of completing the trials by 2008 has not been met, but we recognize that efforts are under way to increase efficiency and to wrap up the work through the use of ad litem judges, extensions and the redeployment of trial judges to the Appeals Chamber. My Government supports these initiatives. We believe that the Tribunals' requests to extend the terms of judges should be honoured by the Security Council, at least through the upcoming biennium.

Those indicted by the Tribunals for committing some of history's worst crimes should not be allowed to escape justice. We must search vigilantly for the 15 indicted individuals who remain at large. The United States calls on all States to fulfil their legal obligations to fully cooperate with the Tribunals.

Let me pass on our concern about reports that a fugitive from the Rwanda Tribunal, Félicien Kabuga, is at large in Kenya. We are particularly troubled by the

Tribunal Prosecutor's assessment that the Government of Kenya has not complied with requests set out in March 2009, including calls for Government records about Kabuga's assets and details of the Kenyan Government's claim that Kabuga has left the country. The United States calls on the Government of Kenya to act immediately on the Tribunal's recommendations and to take additional steps to deny Kabuga access to his networks of support.

We understand the Government Rwanda's desire to receive transfer cases from the International Criminal Tribunal for Rwanda. We appreciate the Tribunal Prosecutor's support for that effort and we commend the work done by Rwanda and other countries to build up the capacity the Rwandan legal system needs to make such transfers possible. Ensuring that the Tribunal can transfer cases to Rwanda and other States, as appropriate, is an important step towards fulfilling the Tribunal's strategy for completing its work. The Tribunal transferred information on some of its Rwandese Patriotic Front (RPF) investigations to Rwanda's domestic courts in June 2008, and four RPF officers face trial. We ask the Tribunal to share whether it expects any further cases that deal with the RPF.

Regarding the International Tribunal for the Former Yugoslavia, we once again call on States to cooperate fully with its work. We recognize the Government of Serbia's efforts to apprehend and transfer those indicted by the Tribunal, including the capture of Radovan Karadžić last July. The United States calls on Serbia to locate, arrest and transfer the two remaining fugitives, Ratko Mladić and Goran Hadžić. The arrest of those two fugitives is crucial to completing the Tribunal's mandate.

We also recognize Croatia's efforts to fulfil its obligations to cooperate with the Tribunal. The Government of Croatia has facilitated the arrests of all Croatian suspects and established a solid record of cooperation with the Tribunal. We urge Croatia to continue this record, and we remain hopeful that there can be a swift, satisfactory resolution of the issues of the documents sought by the Tribunal Prosecutor in the Gotovina case.

We urge the countries of the region to continue to improve cooperation among themselves. Balkan and African States must share information better, allow the transfer of war-crimes proceedings between States where appropriate, and break down the barriers that obstruct the extradition of accused war criminals. Regional cooperation is crucial to bringing such criminals to justice.

Finally, the United States remains committed to creating an efficient, cost-effective residual mechanism that will ensure that war criminals cannot escape justice. We thank the Presidents, Prosecutors, registrars and their staff for their work to fight impunity, and we urge this Council and the parties to work vigorously together to fulfil the demands of justice and create an enduring record of crimes that we dare not forget.

Mr. Urbina (Costa Rica) (*spoke in Spanish*): I should like to start by welcoming the presence among us of the Minister for Foreign Affairs of Turkey and the Prime Minister of Croatia. I should also like formally to welcome the Turkish presidency of the Security Council and to reaffirm the support and cooperation of my delegation for its work.

I would further thank the Russian Federation for its organization and conduct of our work last month, which was tarnished only by the discourteous and antidemocratic attitude of its Permanent Representative when he abruptly ended our meeting of 28 May, before my delegation was able to respond to his unwarranted rebukes of a statement I had made on the need to improve the Security Council's working methods in the preparation of its missions. My delegation has no need of his criteria for assessing the status of the permanent and elected members of this Council, or for appreciating the work of the Secretariat.

Today, I welcome the presence among us of Presidents Patrick Robinson and Dennis Byron and of the Prosecutors of the International Criminal Tribunals. I thank them for their briefings and recognize the efforts of both Tribunals to fulfil the completion strategies, pursuant to resolutions 1503 (2003) and 1534 (2004). Costa Rica believes that the establishment of the international Tribunals was a fruitful decision, ratifying the Council's intention to put an end to impunity for violations of international humanitarian law and human rights. It offered justice to the victims of such crimes and created an important deterrent.

The accomplishments of the Tribunals have shown that peace and justice are not at odds with one another, but that justice contributes actively to the sustainability of peace. Furthermore, the establishment

of the Tribunals helped to raise awareness of the need for a permanent International Criminal Court, which is now a reality.

As we move towards the end of the Tribunals' work, it is more necessary than ever for all Member States, in particular those in the respective regions of the Tribunals, to cooperate with them. Costa Rica calls upon all States to strengthen their collaboration with the Tribunals.

The primary legacy of the Tribunals in the fight against impunity should be the strengthening of national judicial systems. A sustainable justice system is the best guarantee of lasting peace. Costa Rica values the measures to build national capacity undertaken by both international Tribunals. Those measures will facilitate the referral of minor cases to the competent national jurisdictions and enable the Tribunals to focus their work on the indictment and prosecution of high-level leaders suspected of being the parties primarily responsible for crimes falling within their jurisdictions.

Along those lines, we wish to ask Prosecutor Jallow if he is considering beginning trials against other parties that participated in the Rwandan conflict, who are accused of crimes that took place during the time period the Tribunal is charged with investigating. My delegation considers it important that the continued impartiality of justice be guaranteed and that all citizens allegedly responsible for crimes be prosecuted and brought to justice before the international justice system.

With regard to residual functions of the Tribunals, our delegation supports the Council's presidential statement issued as document S/PRST/2008/47, which emphasized the reduced nature of those functions and the need for a small, temporary and efficient mechanism whose functions and size would diminish over time. The residual mechanism must be authorized to try known criminals who have yet to be brought to justice.

For our delegation, it is important that both Tribunals redouble their efforts to reduce the delays vis-à-vis the original time frames. However, that should not be to the detriment of the rights of the accused to due process as provided in the statutes governing the Tribunals. In that vein, my delegation welcomes the establishment of judicial timetables and working groups in order to speed up the trials, and we encourage the Tribunals to continue to carry out reforms that will permit completion of the trials and make the best use of available resources.

The President: I shall now make a statement in my national capacity.

I would like to thank the Presidents and the Prosecutors of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) for their introduction of the reports (see S/2009/252 and S/2009/247). Turkey acknowledges the progress made by both Tribunals in the implementation of their completion strategies. We commend the strong commitment by the judges, the Prosecutors and the entire staff of the ICTY and the ICTR to meet the timelines set by the Security Council. However, it is clear that neither of the Tribunals is able to meet the target dates envisaged in the completion strategies. We thus encourage the Tribunals to continue their efforts to expedite the proceedings, without prejudice to the principle of a fair trial.

On the other hand, we should bear in mind that speedy realization of the completion strategies does not solely rely on the work carried out by the ICTY and the ICTR. In particular, additional measures need to be taken by the Security Council to match the judicial capacity of the Tribunals with current circumstances. Turkey is ready to support every step in that direction.

Cooperation is another essential element of the successful completion of the Tribunal's work. Despite a certain amount of progress, we have regretfully noted that the number of fugitives has remained unchanged since the last biannual reports of the Tribunals. In that regard, we wish to appeal to all States to fully cooperate with the Tribunals, particularly in the pursuit and arrest of fugitives. All those responsible for violations of international humanitarian law in the territories of the former Yugoslavia and Rwanda must be brought to justice.

Finally, referral of cases to national jurisdictions also plays an important role in the fulfilment of the Tribunals' mandates. Here too, we would like to appeal to the international community to provide support, wherever necessary, in order to strengthen the capacity of national institutions of the countries concerned.

In conclusion, the Tribunals have so far made important contributions to international criminal

justice. However, as we are now approaching their closure date, much needs to be done regarding legacy and residual issues. In that regard, we very much appreciate the dedicated work of the informal working group on the international tribunals to resolve the remaining outstanding issues in the coming months under its Austrian Chair.

Once again, I would like to thank the Presidents, the judges, the Prosecutors and all other officials of the Tribunals for their determined work and their efforts to end impunity.

I now resume my functions as President of the Council.

I now give the floor to the Permanent Representative of Serbia. Allow me to welcome him in his new assignment and to wish him continued success.

Mr. Starčević (Serbia): Although I do not belong to the membership of the Security Council, I wish to congratulate you, Sir, and your country Turkey, on your assumption of the presidency of the Council for the month of June. I know that, under your wise guidance, the Council will be able to effectively deal with the problems on its agenda.

At the outset, I would like to express the gratitude of Serbia to Judge Patrick Robinson, President of the International Criminal Tribunal for the Former Yugoslavia (ICTY), and to Mr. Serge Brammertz, its Prosecutor, for the efforts they put into their comprehensive reports (see S/2009/252). My country is appreciative of the fact that the substance and thrust of the reports are in agreement with our own assessment of the level of cooperation achieved so far. Serbia's efforts to comply with its legal and moral obligations — such as witness protection, provision of documents to the ICTY Office of the Prosecutor and all other means of technical assistance, along with the commitment of the Serbian authorities to continue addressing these issues — are recognized, while joint efforts to ensure success in that cooperation are pledged in the reports.

Such recognition is illustrative of the growing belief in the political will and commitment of Serbia to fulfil its obligations towards the ICTY and in its resolve to apprehend the two remaining fugitives. The growing belief in Serbia's commitment to cooperation with the ICTY came recently from the United States Secretary of State in the form of recognition that Serbia is doing its best in this undertaking. Serbia remains firm in its intention to fulfil its obligation to apprehend Ratko Mladić and Goran Hadžić, as it remains dedicated to foster the level of cooperation that has been achieved in the preceding period.

In the last two weeks, following the publication of the Prosecutor's report, Serbia circulated a detailed report on the Government's activities related to its cooperation with the Tribunal and informed the diplomatic community about recent developments in that regard, following Mr. Brammertz's recent visit to Belgrade.

Serbia continues to support the ICTY's completion strategy, defined by Security Council resolutions 1503 (2003) and 1534 (2004). Proceeding from that strategy, the ICTY has identified the 12 most important functions of the residual mechanism to be set up upon the completion of the Tribunal's activities.

On the issue of the ICTY archives, described as one of the most important of those functions, Serbia presented its official position to the ICTY and to the Security Council on 23 October 2008 and is interested in participating in the ongoing dialogue on this important issue. In addition, in relation to the ICTY completion strategy, the Government of the Republic of Serbia presented its views on the subject of the residual mechanism to the ICTY and the Security Council after the official position of the Government was adopted on 13 March 2009.

In conclusion, allow me to reiterate once again that Serbia's commitment to full cooperation with the ICTY will continue. The reports presented to the Council also take note of that commitment, inviting Serbia to continue to foster the level of cooperation that has been achieved. Serbia will continue to make every effort to see this cooperation through to a successful end.

Let me also add our congratulations to Mr. John Hocking on his appointment to the post of Registrar of the Tribunal.

The President: I now give the floor to the representative of Bosnia and Herzegovina.

Mr. Barbalić (Bosnia and Herzegovina): Mr. President, I would also like to congratulate you on your country's assuming the presidency of the Security Council for this month.

Allow me at the outset to express my deep appreciation to the Presidents and the Prosecutors of both the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) for presenting their reports and their assessments. We can all agree that the Tribunals' work through the years has been and remains of great importance, as they have emphasized with each new judgement the role that they play in creating a legacy for the future of international criminal justice and international law as a whole.

Created as an ad hoc measure for restoring and maintaining peace and fostering reconciliation in our respective regions, the Tribunals have grown into very complex institutions. Accordingly, the completion of their mandates, as set forth in the relevant resolutions of the Security Council, demands very careful consideration. It is both necessary and important not to undermine the work that has been done by the Tribunals so far simply to meet the deadlines.

Bosnia and Herzegovina especially welcomes the reports of both the President and the Prosecutor of the ICTY, and their continuing positive assessment of the cooperation between Bosnia and Herzegovina and the Tribunal. Referral of cases to national jurisdictions under rule 11 *bis* is a very important component of the completion strategy and is taken seriously by the judicial authorities of my country, proving once again Bosnia and Herzegovina's strong determination to see that justice is served. The number of cases referred to our national courts is significant compared to other countries of the region and has had a positive impact on the overall workload of the Tribunal.

The War Crimes Chamber of the State Court of Bosnia and Herzegovina is fully operative, and our judges, in cooperation with their international counterparts, have created a positive environment as well as the conditions within our judicial system needed to meet the requirements of rule 11 *bis*. My country has continued to grant access to Government archives and provide the documentation requested by the Tribunal. Moreover, relevant authorities have adequately responded to assistance requests and have facilitated the appearance of witnesses before the Tribunal.

Closely linked with our cooperation with the ICTY is a State Strategy on War Crimes Cases, adopted in December 2008 by the Council of Ministers of Bosnia and Herzegovina. The Strategy sets forth criteria for distributing cases between national and lower level courts, reflecting work done in the cataloguing of crimes committed. The Strategy also stresses the importance of regional cooperation in the investigation of war crimes and calls upon all authorities to urgently improve their cooperation in this area.

Thus, speaking of regional cooperation, it is unacceptable that the Government of the Republic of Serbia through Interpol issued international warrants for 19 citizens of Bosnia and Herzegovina for war crimes alleged to have been committed in Bosnia and Herzegovina. It is important to stress that the ICTY remanded this case to the relevant courts in Bosnia and Herzegovina. Because the war crimes were alleged to have been committed on the sovereign territory of Bosnia and Herzegovina by the citizens of Bosnia and Herzegovina, it is clear that this case should be tried before courts of Bosnia and Herzegovina.

My country also recognizes the efforts of the Prosecutor, Mr. Serge Brammertz. Although his dedication and determination have secured justice for victims and peace for their families, the fact that two fugitives remain still at large represents a serious obstacle to the complete fulfilment of the Tribunal's mandate. These fugitives must be brought to trial before the ICTY; they cannot be allowed to enjoy impunity as a result of the end of the Tribunal's mandate.

In this regard, Bosnia and Herzegovina calls for the immediate arrest of these two remaining indicted war criminals — Ratko Mladić and Goran Hadžić. These arrests must remain the Tribunal's main priority, which is the principal reason why the international community should not declare the Tribunal's mandate completed until justice is brought to the victims and their families.

For this reason, the implementation of the completion strategy remains of great concern to us. We all must keep in mind the fundamental reason why the ad hoc tribunals were established. The strong involvement of the international community through the residual mechanisms in several important aspects such as arrest and trial of remaining fugitives, contempt proceedings and supervision and management of prison sentences is thus very much required.

We duly note that the Tribunal's commitment to following its completion strategy is demonstrated through the adoption of concrete measures for enhancing the efficiency of the proceedings. However, both the full support of the Security Council and the international community and modification of the deadlines already announced remain of crucial importance. Ongoing delays in the arrest and transfer of indictees jeopardize the timely implementation of the completion strategies.

All of the issues that I have outlined require careful consideration and present practical challenges, as we strive, now more than ever, to develop principled yet effective residual mechanisms. The cooperation and support of all countries is greatly needed to ensure that impunity not be an option.

The President: I now give the floor to the representative of Rwanda.

Mr. Ngoga (Rwanda): I thank the Council for the opportunity to contribute to this debate. My delegation wishes to thank the President and Prosecutor of the International Criminal Tribunal for Rwanda (ICTR) for the presentation of their reports. We particularly welcome their acknowledgement and recognition of the cooperation extended to the Tribunal by my Government.

In the period since the last year's last briefing to the Council, my Government has consistently extended the cooperation and support necessary to enable the ICTR to effectively execute its mandate. We have continued to facilitate unfettered access to witnesses for both the defence and the prosecution and assisted the movement of witnesses to and from Arusha. I am pleased to report to the Council that, in my Government's efforts to ensure the peace and stability of our citizens, we have continued to ensure the security of witnesses and responded to any issues that have arisen on a case-by-case basis. My Government has continued to support investigations initiated by both the prosecution and the defence, without prejudice to either.

My Government remains committed to continuing its support for the ICTR's completion strategy as set out in resolution 1503 (2003). Despite last year's disappointing decision by the Trial and Appeals Chambers to reject the Prosecutor's request to transfer cases to Rwanda, we remain prepared to receive any future cases transferred to our competent jurisdiction by the ICTR and to address all of the issues raised in the objections by the Chambers in their respective decisions.

In this regard, we have undertaken a review and proposed amendments to the law governing the transfer of cases and the law abolishing the death penalty, and we have established a witness protection unit within the judiciary. These reforms are resolutely based on my Government's perspectives on the ICTR's completion strategy, and specifically with regard to the transfer of cases rather than the maintenance of the status quo.

The decisions by the Trial and Appeals Chambers have severely undermined my Government's ability to pursue and bring to justice those suspected of genocide all over the world. Those decisions have in tone and content diluted the efforts my Government has pursued to reject a culture of impunity and have set back the progress made in repairing our torn national fabric, not only in the justice sector but in all aspects of national reconciliation and reconstruction.

Those decisions, coupled with erroneous and incorrect factual assessments and occasional deliberate misrepresentations by otherwise useful human rights organizations, such as Human Rights Watch, remain solely responsible for the widening impunity gap that we are currently experiencing. The challenge of reversing the status quo is collective and has a direct bearing on the legacy of the ICTR. However, we remain confident that this situation will be reversed.

My Government has repeatedly and unequivocally stated its view that the archives of the ICTR should be transferred to Rwanda upon completion of the Tribunal's mandate. That conviction is premised on the fact that those records constitute an integral part of our history, are vital to the preservation of the memory of the genocide and will play a critical role in educating future generations to ensure the prevention of genocide. We recognize the ongoing process to determine the final destination of the ICTR archives and remain hopeful that that destination will be Rwanda, without prejudice to wider and unrestricted access by the international community; nor does this position constitute a dispute over ownership of those archives.

We have completed ratification of the agreement between the ICTR and the Government of Rwanda regarding the serving in Rwanda of sentences handed down by the ICTR, and the instruments of ratification

have been deposited. We have also recently signed an agreement with the Special Court for Sierra Leone regarding sentences handed down by that Court. We believe that that is essential to dispel the perceived mistrust of Rwandan institutions and that it will, equally, contribute to the reconciliation process in Rwanda.

In conclusion, Mr. President, allow me to thank you again for the opportunity to contribute to this dialogue and to reiterate my Government's continued commitment to supporting the work of the International Criminal Tribunal for Rwanda.

The President: I now give the floor to the representative of Kenya.

Mr. Muita (Kenya): Let me begin by thanking you, Mr. President, and the other members of the Security Council for allowing me to participate in the proceedings of the Council today. I also wish to extend my appreciation to the Presidents and the Prosecutors of the International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Tribunal for the Former Yugoslavia (ICTY), respectively, for their comprehensive reports (S/2009/247 and S/2009/252) submitted to the Council pursuant to the relevant Security Council resolutions and for their stewardship of the affairs of their respective judicial bodies.

In reference to the mention of Kenya, I would like to report that my country has been and continues to be an active player in the international criminal justice system. I wish to reiterate that my delegation stated last year that the ad hoc criminal Tribunals established by the Council and the International Criminal Court must provide and protect the proper administration of justice by prosecuting those who promote impunity. To that end and with regard to the ICTR, Rwandan fugitives found within Kenyan territory in the past were arrested and surrendered to the ICTR. We have actually helped deliver the highest number of genocide suspects to the Tribunal. That is a demonstration of Kenya's commitment to the Court's work and to the administration of international criminal justice in general.

Concerning the fugitive Félicien Kabuga — who is wanted by the ICTR for prosecution — regarding whom the Prosecutor alluded to the possibility that the fugitive is resident in Kenya, my delegation would like to state again that the fugitive is not in Kenya. He was in my country in the 1990s, but he is certainly not there today. Kenya has no benefit in hiding the fugitive. In any case, with the kind of reward on his head, no Kenyan would allow him to run around the country unreported.

The Government of Kenya has followed every possible lead in this case and has come to a dead end, and comprehensive reports to that effect have been made to Arusha. The Prosecutor should widen his search to include destinations where the money trail leads and where the fugitive is said to own other property.

Further, the Government of Kenya has been engaged in consultations with the Prosecutor's Office through the Joint Kenya-ICTR Task Force; in particular, the Tribunal is aware that the Kenyan authorities are vigorously defending in the Appeals Court a decision of a lower court to freeze transactions relating to property registered in the fugitive Félicien Kabuga's name. Our commitment to the cause of the ICTR is unquestionable, and should the fugitive ever be found within Kenya's territory, he will be apprehended and surrendered to the Tribunal.

Before I conclude, I wish to indicate that the case for additional ad litem judges, as has been elaborated by the President of the ICTR, is one that contains merits and that therefore my delegation supports. I wish to end by reassuring the Council of Kenya's unwavering commitment to cooperate fully with the Court in support of international criminal justice and the eradication of impunity.

The President: I now give the floor to Judge Byron, President of the International Criminal Tribunal for Rwanda, to respond to questions and comments.

Judge Byron: I think that I need only say that the International Criminal Tribunal for Rwanda is in general very pleased with the expressions of confidence expressed by the States members of the Security Council. I would like to reiterate our commitment to work as hard as we can to honour the mandates of the completion strategy and to bring the trials completely to an end as soon as possible.

The President: I thank Judge Byron for the clarification that he has made. I now give the floor to Mr. Jallow, Prosecutor of the International Criminal Tribunal for Rwanda, to respond to questions and comments.

Mr. Jallow: My thanks, Mr. President, go not only to you but to all the members of the Security Council for their support and their encouragement.

Turning to the last issue that was raised in relation to Kabuga, of course I would like to acknowledge the support that the International Criminal Tribunal for Rwanda (ICTR) has received from Kenya over the years in the form of the arrests of several other fugitives in the late 1990s. But even at that time, of course, Mr. Kabuga was one of the indictees whose arrest we were seeking from that country, and he was the only person to have escaped arrest from Kenya in the late 1990s, when operations were mounted jointly by the police force and our staff to transfer indictees who were wanted in Arusha. Since then, this has continued to be an issue. As I indicated earlier, it is a simple matter; if the Kenyan Government is saying categorically that he has left the country, we would like to be advised of the circumstances of his departure so that the case can be followed up appropriately.

Regarding the matter of allegations against the Rwandese Patriotic Front (RPF), we of course recognize that this is a matter that falls within our mandate, and we have been investigating those allegations with the result that, last year, we were able to reach an understanding with the Rwandans, who wanted to prosecute the case that we had developed. That was the Kabgayi case relating to the killings of several clergy in Kabgayi by RPF soldiers.

As I have already reported to the Council, we gave the Rwandan prosecuting authorities the opportunity to proceed with that case against four senior military officers for the killings of those clergy and other civilians. At the trial level, two of them were convicted and two acquitted; that decision was confirmed by the Appeals Court in Kigali. The trial itself was monitored by staff from my Office. It was an open and public trial, and other parties monitored the proceedings, which, were, in fact, also video recorded. The report of my monitors indicates that the standards of fair trial were observed, and we have now received translated copies of the judgements.

That is not the only case that has been prosecuted in Rwanda with respect to allegations against the RPF. At my request, the Rwandan military prosecutor has been able to provide me with details of up to two dozen senior military officers who, between 1994 and now, have been prosecuted before Rwandan military courts with respect to allegations against the Rwandese Patriotic Front (RPF).

So, a lot of work has already been undertaken in this area; indeed, the work is ongoing. What I can say is that, at this stage, other than on those cases that I have mentioned, my Office does not have an indictment that is ready in respect of these allegations at this particular stage.

The President: I thank the Prosecutor of the International Criminal Tribunal for Rwanda for his clarifications.

There are no further speakers inscribed on my list. The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

May I take this opportunity, on behalf of the Security Council, to thank Judge Robinson, Judge Byron, Prosecutor Brammertz and Prosecutor Jallow for taking the time to brief the Security Council.

The meeting rose at 1.15 p.m.